

November 13, 2007



**TRANSCRIPT  
November 13, 2007**

**MONTGOMERY COUNTY COUNCIL**

**PRESENT**

Councilmember Marilyn J. Praisner, President	Councilmember Michael Knapp, Vice President
Councilmember Phil Andrews	Councilmember Roger Berliner
Councilmember Marc Elrich	Councilmember Valerie Ervin
Councilmember Nancy Floreen	Councilmember Duchy Trachtenberg

**ABSENT**

Councilmember George Leventhal

1  
2  
3  
4



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1 President Praisner,  
2 Can you please rise for a moment of silence? And let's remember the young man from  
3 Spring Brook High School who lost his life in an automobile accident this weekend. And  
4 let's pray for all our young people that they drive more carefully and pay attention to the  
5 motor vehicle rules as well. And let's also remember our colleague George Leventhal  
6 who's going through some surgery this morning, and we wish him well. Thank you. We  
7 have a presentation by Councilmember Andrews in recognition of the establishment of  
8 the Local Author's Corner at Gaithersburg Library.

9  
10 Councilmember Andrews,  
11 If the good folks from the Gaithersburg Library and author Lewis Solomon can join me  
12 up here, I'd like to have them with me. Let me introduce you to who I'm being joined by.  
13 Parker Henderson, Director of -- .

14  
15 Unidentified,  
16 Hamilton.

17  
18 Councilmember Andrews,  
19 Hamilton. I'm sorry. Parker Hamilton, Director of the Montgomery County Public Library  
20 System. Lillian Snyder, Director of Gaithersburg Library. Karen Logsdon, Gaithersburg  
21 Library. And Louis Solomon, our -- the instigator of this great idea, and a local author.  
22 One of the great privileges of serving on the County Council is to learn about the good  
23 work that's being done throughout the County. And actually, I first met Mr. Solomon  
24 when I knocked on his door a few years ago. And we talked. I found out -- he told me he  
25 was an author and was interested in an idea that he thought would be of benefit to  
26 many people in Montgomery County. And I think that has certainly turned out to be true.  
27 We have a tremendously literate County and we have a lot of players -- authors in  
28 Montgomery County. And it makes sense that we would combine the authors at the  
29 libraries where many, many books are. So that is what has occurred after a lot of good  
30 work at the Gaithersburg Library. The local Author's Corner at Gaithersburg Library is  
31 the first, and this is the first anniversary of this facility -- of this program at Gaithersburg.  
32 There are dozens of local authors represented. I think we're up over 55 now at the  
33 library. And it is a way to support local authors which there are many, and to get the  
34 word out to people in the community that we have this talent right here, homegrown,  
35 and to provide a forum and to encouragement. It's not easy to an author. My aunt was a  
36 children's author. She wrote Candy Stripers. And she used to work until 2:00 in the  
37 morning until 10:00 in the morning because no one would call her during those eight  
38 hours. Her husband was an author as well. It's not an easy profession but a very  
39 important one. And so on behalf of the County Council I'd like to present this  
40 proclamation; one to the library representatives and one to Mr. Solomon. And I'll read it;  
41 it says: Whereas in a world undergoing constant change, public libraries provide  
42 enduring connections to the past and future of our communities, nations and  
43 civilizations. And whereas, public libraries contribute to the celebration of human  
44 diversity and quality of life in our communities, and whereas, initiated by local author



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1 Louis Solomon with support of Librarians Karen Logsdon, Lillian Snyder, Carol Steele,  
2 and I would add Parker Hamilton, under the sponsorship of the Montgomery County  
3 Public Libraries, the Local Author's Corner was established in November 2006. And  
4 whereas, the Local Author's Corner is an opportunity for local authors to gather and  
5 have the opportunity to share their works with their fellow authors. And whereas, the  
6 ambition of being an author is filled with many challenges but the activities of the Local  
7 Author's Corner encourage writers in their craft, provide support among the individual  
8 writers, and can encourage inspiring writers to become published, and they inspire  
9 writers in the marketing of their literary works for payment. Now therefore be it resolved  
10 that the County Council of Montgomery County, Maryland, hereby offers its  
11 congratulations on the occasion of a first anniversary of establishment of the Local  
12 Author's Corner at the Gaithersburg Library, signed this 14th day of November by  
13 Council President Marilyn Praisner. Congratulations for the successful initiative. Thank  
14 you for the good work. Let me present a proclamation to the library system, to you,  
15 Parker, and your proclamation to our initiator, author Louis Solomon. And let me ask if --  
16 let me ask Ms. Hamilton if you'd like to make a few remarks first.

17  
18 Ms. Hamilton,

19 Yes. Thank you very much. And thank you for the recognition. One of the great things  
20 about the residents of Montgomery County they're not shy by telling us the services and  
21 programs that they would like to have. And Mr. Solomon came to us and it was a new  
22 idea. And at first, we weren't quite sure whether we could pull this off or not. But he  
23 persisted and got Mr. Andrews involved. And finally we looked at this and I went to  
24 Lillian Snyder and said, look, you're really good at pulling off different programs,  
25 different ideas. This is something we want to do. Would you do the pilot at the  
26 Gaithersburg Library. And without hesitation Lillian said absolutely and brought in Karen  
27 and brought in Carol, and we have a wonderful program. It was a pilot, but as many  
28 pilots now it's a reality. And we look forward to having this in other libraries in the library  
29 system. So Mr. Solomon, thank you for your idea. And Lillian and Karen, thank you,  
30 guys, for implementing this.

31  
32 Councilmember Andrews,

33 Very good. Thank you, Parker. Mr. Solomon.

34  
35 Mr. Solomon,

36 My remarks are few, but hopefully focused. One of the reasons why we started this was  
37 many authors and their neighbors didn't know each other. And one of the issues was  
38 why shouldn't their neighbors within the county themselves find out what their neighbors  
39 are doing next door feverishly in the middle of the night? And so we now have this Local  
40 Author's Corner where the authors donate the books. There are over 55 authors who  
41 are currently members. There will be many more. And the books range from children's  
42 books to highly technical books to novels and to how-to books. So I encourage my  
43 fellow citizens to come to the library and find out what their neighbors are doing. Thank  
44 you.



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Councilmember Andrews,

Thank you. We have an incredibly high number of people in Montgomery County who use our library system. It's probably our most used county service and most popular one I suspect as well. The Council has always enjoyed supporting libraries. And I know that we're going to be looking forward to Gaithersburg's renovation in the coming years; very busy library. I think that our photographer would like us to gather close together so he can get a shot.

President Praisner,

I'd like to ask Donna Barron to join me up front, please. We have incredible individuals in this County who come forward and work for very little financial reward to serve our County in a variety of ways. And at the top of that list I would put Donna Barron for all of the years that she has served the County -- don't cry 'cause I'll cry -- served the county through our board of appeals. She is a tireless worker. The hours that she puts in, the commitment and dedication to the community, and to the kind of diligence and the importance of the Board of Appeals' work is just incredible. And Donna's finishing her term given the rotation guidelines that we use. So on behalf of the County Council I'd like to present this certificate to Donna Barron in recognition and deep appreciation for your distinguished service and leadership on the Montgomery County Board of Appeals and your ongoing and undying commitment and dedication to the people of Montgomery County. Donna, this is for you. One of the other things we have is one of the infamous Montgomery County plates.

Ms. Barron,  
I love it.

President Praisner,  
Yeah.

Ms. Barron,  
If anybody knew my sense of direction, I finally have a map.

President Praisner,  
I would recommend not keeping this in the car. But you use it any way you want to, lady, it longs to you. Donna, any comments you want to make?

Ms. Barron,  
Thank you very much. You and I are the only ones left after 11 years. All of our friends are new. I would like to say I am very grateful for the opportunity to have served on the Montgomery County Board of Appeals. I have been part of an incredible team of board members, chairmen and staff, and lots of others we'll talk about tomorrow. But I would like to say that it has been indeed an honor and privilege and I thank you with all of my heart.



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1  
2 President Praisner,  
3 Well we thank you.

4  
5 Ms. Barron,  
6 Thank you, I'm so honored.

7  
8 President Praisner,  
9 Hold for a picture.

10  
11 Ms. Barron,  
12 Yes.

13  
14 President Praisner,  
15 Announcements of the agenda and calendar changes, Madam Clerk.

16  
17 Council Clerk,  
18 Good morning. Council is announcing its public hearing November 27th of the FY09  
19 Washington Suburban Sanitary Commissions Spending Control Limits. We have an  
20 additional item for the consent calendar this morning. An introduction of a resolution to  
21 authorized advance taking, Valley Brook Drive pedestrian pass, and that will go to T&E  
22 on November 15th. And then we did receive one petition this week. And that's from  
23 residents opposing dirt bike track in Brookville, Maryland. Thank you.

24  
25 President Praisner,  
26 Thank you. We have minutes, Madam Clerk?

27  
28 Council Clerk,  
29 Yes, the minutes of October 29th and October 30 for approval.

30  
31 President Praisner,  
32 Is there a motion?

33  
34 Councilmember Trachtenberg,  
35 So moved.

36  
37 President Praisner,  
38 Councilmember Trachtenberg. Second by Vice President Knapp. I see no -- oh,  
39 Councilmember Berliner.

40  
41 Councilmember Berliner,  
42 Madam President, I just -- in reference to October 30th on page 3 where it discusses  
43 the action we took with respect to the Hill Meade property, I would grateful if it could  
44 read on Item 5 that Resolution 16-359 was adopted as amended unanimously, because



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1 there's an implication that Councilmember Andrews and I which opposed it -- the  
2 amendment -- were not recorded unanimously in support of the resolution as put  
3 forward.

4  
5 President Praisner,

6 Okay. Duly noted. All in favor of approval of the minutes of October 29th and 30th with  
7 that correction please indicate. That is unanimous among those present. We'll now  
8 move to the consent calendar which is now A through L. Is there a motion?

9 Councilmember Floreen. Is there a second? Councilmember Trachtenberg. Any items  
10 that individuals would like to have pulled items Councilmembers would like to speak to?  
11 Councilmember Knapp.

12  
13 Vice President Knapp,

14 And I'll be very, very brief. I thank the Council President for moving for the introduction  
15 of Item A, Resolution to Termination the Clarksburg Town Center Development District.  
16 I just wanted to speak briefly that this is one piece of many elements that need to get  
17 addressed as it relates to the development district, but more importantly the goal is to  
18 try to work us through many of the issues we've been working on in Clarksburg over the  
19 last three to three and a half years so that when the amended cite plan as a result of the  
20 plan of compliance comes forward that we can move forward and actually implement  
21 that plan so the residents of that community can really begin to see the community  
22 come to fruition. And so I just appreciate the efforts of the President for letting me put  
23 that in today. I expect there will be additional legislation coming from the OLO report  
24 which recommended some refinements of the current law that I will work with my  
25 colleagues on in the coming months. And also to continue to work with the Executive  
26 Branch and the community as well as the development community to make sure that we  
27 get to a resolution that I think the Council will be accepting of and the Executive Branch  
28 and the community, so that we can all work forward -- work together to move forward to  
29 allow Clarksburg to become the great community that we hope it will be one day. Thank  
30 you.

31  
32 President Praisner,

33 Thank you. I want to make note on Item L that is the new item Advance taking Valley  
34 Brook Drive. The resolution, which is the second page of the document, which the  
35 owners of the property is Stephen and Patricia O'Neill; I believe Mrs. O'Neill's first name  
36 is Lisa. If folks could check that before the T&E Committee, that would be appreciated  
37 very much. I see no other lights. All in favorite of the consent calendar please indicate  
38 by raising your hands. That's unanimous among those present. Councilmember Berliner  
39 voting in the affirmative as well. Okay, we'll now move to action on appointments to the  
40 Board of Appeals. We'll deal first with the -- well, we can vote on -- Councilmember  
41 Floreen.

42  
43 Councilmember Floreen,



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1 Thank you, Madam President. As we all know, the Board of Appeals does yeomen's  
2 work in sorting out things that matter to neighbors, to communities, the details of how all  
3 our rules get implemented on the ground and in place of neighborhood challenges. And  
4 it's not an easy job, and I think we are blessed as usual to have a terrific crowd of  
5 applicants. I am going to -- would like to move to the reappointment of the current board  
6 Chair Allison Fultz, who I think has done a great job and with a strong backbone but  
7 great wisdom and knowledge, as well as Wilson Krahne -- .

8  
9 President Praisner,  
10 Well, why don't we do them separately.

11  
12 Councilmember Floreen,  
13 Okay.

14  
15 President Praisner,  
16 Because I want to deal with the first, which is the appointment of a -- reappointment of  
17 Allison Fultz as Chair, and that doesn't require any seconds. Are there any other  
18 motions related to that appointment? If not, all in favor of the reappointment of Allison  
19 Fultz as Chair of the Board of Appeals please indicate by raising your hand. That is  
20 unanimous among those present. Councilmember Berliner in the back of the room.  
21 Okay. Now we'll move to the second appointment. Councilmember Floreen.

22  
23 Councilmember Floreen,  
24 Yes. Thank you, Madam Chair. I'm going to move Wilson Krahne as next member of  
25 the Board of Appeals. He has already labored for us in other areas -- on the taxicab --  
26 let's see, I think it is the Taxicab Commission, has really worked within communities  
27 already to try to address our challenges. And I think that's good training, a good warm-  
28 up for dealing with the issues before the Board of Appeals.

29  
30 President Praisner,  
31 Okay. Councilmember Floreen has nominated Wilson Krahne for the Board of  
32 Appeals. Are there any other motions? Councilmember Andrews.

33  
34 Councilmember Andrews,  
35 Thank you, Madam President. As I said before, one of the characteristics in  
36 Montgomery County is that we always have more applicants that we can possibly select  
37 for our commissions and our boards. And that's a good thing. I remember when we  
38 were choosing a new Inspector General; we had two sitting Federal Inspector Generals  
39 to review the applicants. And we have a lot of talent Montgomery County that we are  
40 benefiting from. I would like to nominate David Perdue for the Board of Appeals. I was  
41 very impressed with his interview. And I think he would be a terrific addition to the  
42 board.

43  
44 President Praisner,



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1 Okay. Are there any other nominations to come before the Council? If not, we will vote  
2 first on the name of -- we'll vote on them in the order in which they were nominated.  
3 First is Wilson Krahnke. Are there any votes for Wilson Krahnke? Councilmember  
4 Floreen and Praisner and Ervin. Okay. Are there any votes for David Perdue?  
5 Councilmember Andrews, Berliner, Knapp, Trachtenberg and Elrich. Mr. Perdue has  
6 been appointed to the Board of Appeals and will make it by acclimation. And I want to  
7 thank everyone who applied. It was a difficult task to review all the candidates and we  
8 appreciate their willingness to serve in this very important role. Okay. With that, we will  
9 now move to action on the Growth Policy and the Resolution on the Comprehensive  
10 Amendment to the County Growth Policy and the Impact Tax Rates. And I would ask  
11 folks from the Planning Boards and staff who are here. Are we expecting Dr. Hanson?

12  
13 Unidentified,  
14 [Inaudible].

15  
16 President Praisner,  
17 Pardon me?

18  
19 Unidentified,  
20 [Inaudible].

21  
22 President Praisner,  
23 I'm sorry, Valerie. He's out there. So can we take a moment to see if Dr. Hanson is  
24 present or will be joining us. While we're waiting for Dr. Hanson to join us, Mr. Orlin, if  
25 you and Mr. Faden could review for us the changes or items; I think there's an  
26 addendum, isn't there always, when it comes to the Growth Policy. We need to look at  
27 the different modifications before us.

28  
29 Dr. Orlin,  
30 Sure. In the addendum which was circulated this morning, we found some errors and  
31 also we have some additional information than what I have before you before you  
32 approve the Growth Policy.

33  
34 President Praisner,  
35 [Inaudible].

36  
37 Dr. Orlin,  
38 First is -- the addendum was actually put on your seat. So you're either sitting on it or it's  
39 in front of you. The first point is that we -- I apologize, we inserted the wrong school  
40 chart tables in the original packet, so the corrected -- the correct versions are attached,  
41 Circles 34 and 35.

42  
43 President Praisner,  
44 Circles 30 -- .





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1  
2 Dr. Orlin,  
3 Well in the addendum it's the first thing you see right after the cover letter.

4  
5 President Praisner,  
6 Right. Okay.

7  
8 Dr. Orlin,  
9 Those are the correct charts. What I included was the charts prospectively from July 1st  
10 and those obviously were the wrong charts. Secondly, just a clarification with definition  
11 of the Rural East and Rural West policy areas, the last definition wasn't as precise as  
12 what we have in front of you here. The second bullets, we suggest you use that. Thirdly,  
13 Councilmember Trachtenberg has advised us that she wishes to withdraw her  
14 suggestion to the to-do list regarding affordable housing in redevelopment areas. That's  
15 item F-7 on Circle 29. So if you concur with that that will come out. The fourth bullet  
16 Councilmember Floreen in looking over the Growth Policy realized that with a ceiling --  
17 staging ceiling's now applying to the school tests that there perhaps needed to be rules  
18 in the Growth Policy regarding the queue. And there had been in prior growth policies  
19 when there was a staging ceiling for the transportation test. We agree that there either  
20 ought to be specific queue rules in the resolution or you could just simply in the  
21 resolution direct the Planning Board to develop the queue rules. The queue rules that  
22 were in the '02 Growth Policy are on the pages immediately following the school charts.

23  
24 President Praisner,  
25 And the queue rules, if you just -- since we haven't discussed this before, you want to  
26 go into a little more detail on what the queue rules are in the packet and also the  
27 rationale for including them.

28  
29 Dr. Orlin,  
30 Well, the rationale for including them is that if you have several developments coming  
31 forward and they're competing for the same space in the staging ceiling, it's a way of  
32 sorting them out, who gets to go first. In terms of the specifics as to why these specific  
33 rules were adopted, I frankly don't recall. Karl might be a better source to that. Do you  
34 recall why the specific rules we have for queue in the old days?

35  
36 Mr. Moritz,  
37 I'm sorry, it predates this as well.

38  
39 Unidentified,  
40 It's been there forever.

41  
42 President Praisner,  
43 Well, but they create a process for how you assign the who's in line next kind of issues.  
44 The only question I had, because I haven't had a chance -- these are the rules that



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1 we've used before. They stood us in good stead. The references to TP 7.4, 7.3, 7.4  
2 elements are they fit in the right place and those numbers are the correct numbers?

3  
4 Dr. Orlin,

5 We're going to have to change -- if you want to adopt language similar to what's  
6 attached here, we would have to change these. Refers first of the traffic test. This  
7 wouldn't apply to. The sense is to whether or not you want to have these kinds of-- like  
8 the queue dates, like the -- the queue date of subdivision regulation complete  
9 application is followed the Planning Board. We wouldn't say a traffic study is filed  
10 because that's not necessarily moot for this because this is really for the school test. But  
11 the six months after the prior queue date, the prior queue date expires [inaudible].

12  
13 President Praisner,

14 So in other words what you're suggesting is that this specific language still needs to be  
15 modified slightly in order to incorporate the kinds of tests that we're doing now, schools  
16 and traffic and traffic study wouldn't necessarily be the right term. But the queue as far  
17 as a complete application and the filing of all the materials, et cetera, is the concept that  
18 we're talking about.

19  
20 Dr. Orlin,

21 Correct. Or alternatively you could just simply add a sentence to the policy saying you  
22 direct the Planning Board to develop rules for the queue.

23  
24 President Praisner,

25 Okay. Nancy, you brought this up. Do you have any preference?

26  
27 Councilmember Floreen,

28 Well, I just think that we should have rules.

29  
30 President Praisner,

31 Right. Absolutely.

32  
33 Councilmember Floreen,

34 We could simply say -- we could take Glenn's -- well, I think there's help -- it's useful to  
35 have set, you know, clear, straightforward rules that people know how to apply. Perhaps  
36 they could take the -- I don't think we're going to spend all day on this.

37  
38 President Praisner,

39 No, I would hope not.

40  
41 Councilmember Floreen,

42 Take some time after this, if the Council agrees, and just make those word changes and  
43 then insert it in the appropriate portion of this so that the Council then could take a look  
44 at it before it adjourns this afternoon.



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1  
2 President Praisner,

3 Okay. Any objections to that? What we would do is ask to staff massage this general  
4 language and bring it back to us this afternoon. We have a couple of public hearings  
5 and a legislative session. That item we could vote on this afternoon. Okay. Without  
6 objection, that's what we'll do. Are there any other -- .

7  
8 Dr. Orlin,

9 The maps for the policy areas are attached except for the three which are still being  
10 developed. But they'll be included. And the boundaries have not changed for the  
11 existing policy areas, so that really shouldn't be an issue.

12  
13 President Praisner,

14 We've seen maps like this before. It's not like -- they're just not attached to the  
15 resolution.

16  
17 Dr. Orlin,

18 Right.

19  
20 President Praisner,

21 Is there any objection to the Rural East policy area, Rural West policy area language?  
22 Not hearing any, we would incorporate that as well. Okay. Go ahead.

23  
24 Dr. Orlin,

25 Mike has one more.

26  
27 Mr. Faden,

28 There's also -- we omitted a staff error in this resolution, the amendment Mr. Knapp  
29 proposed a week ago, which was adopted, which essentially goes at the very beginning  
30 of the effective date provision which is on -- .

31  
32 President Praisner,

33 As it relates to the Clarksburg.

34  
35 Mr. Faden,

36 As it relates to previously approved amendments, previously approved plans in  
37 Clarksburg. So we will plug that in basically as adopted last week.

38  
39 President Praisner,

40 Just tell us what page that would go on so we know where -- .

41  
42 Mr. Faden,



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1 It would go on Circle 2 and would go at the end of AP1. You will have to decide what the  
2 rest of AP1 looks like when you take up the effective date issue. But whatever you have  
3 in there, this Clarksburg sentence would go at the end of that paragraph.

4  
5 President Praisner,  
6 Okay.

7  
8 Vice President Knapp,  
9 Thank you.

10  
11 Dr. Orlin,  
12 And we can bring that back this afternoon too.

13  
14 Mr. Faden,  
15 Actually we'll probably make it an AP2 because it's separate, because there's no AP2,  
16 but we'll have it for you.

17  
18 President Praisner,  
19 Okay. All right. Any objections to that since we already did that earlier? On the follow-up  
20 work there were two issues that I raised with Mr. Orlin -- let me see where they are. The  
21 first was on the Impact Tax Regulations that we indicated that the Executive needed to  
22 bring us revised Impact Tax Regulations. I'd like that to come to us by July 1, 2008. And  
23 we need to add that as a separate -- since that -- it doesn't fall into any of the deadlines  
24 that are listed it would be a separate item with a separate deadline so the Council can  
25 look at this before we recess for the summer.

26  
27 Dr. Orlin,  
28 I'm sorry, that was by what date again? I'm sorry.

29  
30 President Praisner,  
31 July 1, 2008. The other item is F3, the guidelines for Non-Auto Facilities that we asked  
32 be delivered on or before August 1, 2008. I want to make clear that the PHED  
33 Committee and the Council would have a chance to review those guidelines. There's no  
34 language here at F3 that makes reference to that. It says for delivery to Council for  
35 those items. I assume that means that the Council will have a chance to review. But I  
36 wanted to just -- there's been a lot of discussion about the trip mitigation and what we  
37 count and how we count it. And I think it's important that we make note of that.

38  
39 Mr. Faden,  
40 Clarification there, Council review, you're not saying Council approval, are you?

41  
42 President Praisner,  
43 No, but I want the Council to discuss and make feedbacks to the Planning Board.



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1 Mr. Faden,  
2 Okay.

3  
4 President Praisner,  
5 Okay. Any other items on the resolution as things that we had already dealt with last  
6 week? I think that's all. Now we would move to the items that are outstanding. And that  
7 is the effective date. I tried to call members of the PHED Committee to see where  
8 PHED Committee members were. I didn't get a feedback from Nancy as to where you  
9 were with your effective date.

10  
11 Councilmember Floreen,  
12 I believe I'm at December 31st.

13  
14 President Praisner,  
15 Right. That's what I had thought. We had discussed this in the committee earlier, but  
16 then had not brought a recommendation forward. Councilmember Elrich, I believe you  
17 had made the motion. So I am comfortable with January 1, but I am not comfortable  
18 with going back with -- to a plan that the Planning Board has already approved, so if we  
19 could make the language clearer that this applies to plans that have not yet received  
20 approval. I don't think it would be a good idea to go back to the Planning Board and  
21 have them review. We got a list last week of approved plans. Is that okay, Nancy?

22  
23 Councilmember Floreen,  
24 Yeah. Yeah.

25  
26 President Praisner,  
27 Okay. All right. So those are the committee recommendations. And we have a variety of  
28 options for the Council's consideration. So are there any other motions besides that  
29 would modify the committee's recommendation? Councilmember Ervin.

30  
31 Councilmember Ervin,  
32 Thank you, Madam President. I do have a modification, and I sent out memos. I hope  
33 that all the Councilmembers received them in their packets going home over the  
34 weekend. And that is to go to a November 13th date. I know that we've been really  
35 struggling up here with what we're going to do about affordable housing. We have an  
36 affordable housing project that's very unique, I think, and unusual in our county. And  
37 that is what may happen at the Falklands. I have been in a lot of conversations with  
38 members of AIM, with the County Executive staff, my own staff about what we could --  
39 and the owner of this property on how we could net more affordable units in this building  
40 which is 900 feet away from the Silver Spring Metro station. There are two letters that  
41 were received in my office this morning, and I'd like to read two quick lines from each of  
42 the letters. One from a Reverend Heather K. Januls who says, "I'm inspired by the  
43 collaboration between the Falkland North developer and ACTION in Montgomery  
44 proving that developers and community organizations can work effectively toward



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1 common goals. This collaboration may serve as a model for community center  
2 development in our future.” The second letter I'm going to read from is from Reverend  
3 Rachel Cornwell who says, “The redevelopment of Falkland North would add more than  
4 1,000 apartments within walking distance to the Metro, and would include a street-level  
5 grocery store, restaurants, and a public green space, all of which we see as very  
6 welcome and needed redevelopment in our neighborhood. But in addition, Home  
7 Properties has guaranteed that if Falkland North is approved, they'll build 282 new  
8 workforce affordable housing units in Silver Spring.” My point being if we go to a cutoff  
9 date of January 1, this would have some negative impact on -- in my estimation, on this  
10 development which will produce 133 new MPDU's on a north parcel. And Home  
11 Properties has agreed to extend the rent supplement program for 44 units at the Wood  
12 Leaf and Silver Spring for 20 years and add five more units to the program for a total of  
13 49 units. This commitment would result in a total of 182 affordable units in connection  
14 with the project, a number equal to the total number of units now located on the north  
15 parcel. I know ACTION in Montgomery has been in contact with many of us up here on  
16 the dias about one-to-one replacements of affordable units. We have a unique  
17 opportunity at Falklands to do what we've said we wanted to do all along, and that is to  
18 promote and produce new affordable units in our community. And I think, unfortunately,  
19 we're tied up here in a lot of knots in terms of where we think we want to move as a  
20 County. I believe this is an opportunity that we should not pass up. If we're really true to  
21 our goal, our public policy goals around building affordable housing, about developing  
22 housing units near Metro, this is how I think we should proceed. And I would like my  
23 colleagues to take a look at this memo. I am advocating that we move the effective date  
24 to November 13th.

25  
26 Councilmember Floreen,  
27 Second.

28  
29 President Praisner,  
30 All right. Been moved and seconded that we move -- that amend the committee's  
31 recommendation to move the date to November 13th. Council Vice President Knapp.

32  
33 Vice President Knapp,  
34 Thank you, Madam President. I certainly appreciate the issues that Councilmember  
35 Ervin has just raised. One of the concerns I've had -- well, actually going back since the  
36 first Growth Policy I worked on is there's been a propensity to put in certain caveats or  
37 exemptions for specific parcels. And one of the things I told folks early on in meeting  
38 with people was that I think it's important for us to have a policy that's applicable kind of  
39 throughout the County. And so I think it's important for us to have a policy that  
40 accommodates the goals that we think we have as a Council. And so I think what Ms.  
41 Ervin has raised as it relates to an applicability of November 13<sup>th</sup>, I think makes sense,  
42 because it accommodates important programs like what she just outlined. I think it's  
43 actually fair in that typically we would not make an effective date -- even to have an  
44 effective date the day of our passage is actually sooner than we'll typically do it. I know



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1 that there are concerns over a move that had occurred four years ago where there was  
2 too long a period before the Growth Policy took effect. And I don't disagree with that  
3 assessment. But I think it's important for us not to swing the pendulum too far back the  
4 other way. In particular, I have concerns of us trying to carve out specific projects,  
5 because I think once you start going down that road it becomes a slippery slope. And so  
6 I'm supportive of the motion as made by Councilmember Ervin because I think it's fair to  
7 all parties involved, and I think it addresses the issues that relates to our county-wide  
8 policy looking at affordable housing. And so I appreciate the motion and will support it.

9  
10 President Praisner,  
11 Councilmember Elrich.

12  
13 Councilmember Elrich,  
14 I'm going to oppose the motion for a couple of reasons. No matter what we say, and no  
15 matter what you do with the date, this is accommodating a single project. The rationale  
16 wasn't raised here about accommodating multiple projects. The rationale was raised  
17 that we should do this for the Falklands. And I agree with what you said, Mr. Knapp, that  
18 we shouldn't be doing things for specific projects. And that is what this is about. It's a  
19 zoning for a single project. And I don't think that's the way we ought to be making policy  
20 decisions up here. The Home Company is not in the affordable housing business. Their  
21 business plan is middle-income housing. And this is not about -- this is not primarily an  
22 affordable housing project. There are 183 units on the Falklands today. They're not  
23 replacing all of the 183 units on the Falklands; they're using existing affordable housing  
24 to offset some of the units which they're displacing on the Falkland's property. So it's not  
25 exactly the same as putting 183 units back on the Falklands and leaving things the  
26 same. If they were an affordable housing company, they'd be leaving the other  
27 affordable housing, which they're promising to preserve for a longer time, alone on the  
28 general principal that they're an affordable housing company; not that they're trading it  
29 off as counting toward the 183 units that they're going to take out of the Falklands. I'm  
30 not going to raise the Historic Preservation issue, but I think it's a legitimate one. I think  
31 we need to think also about is the fate of Silver Spring at every CBD to only be high-  
32 rises, or are we going to have a mix of housing and mix of opportunities in these  
33 communities? Are garden settings and lower-density settings totally inappropriate for  
34 Silver Spring? Are they totally inappropriate for Bethesda? Are they going to be totally  
35 inappropriate for every place we have a Metro stop? And I think we need a balance of  
36 housing. And I don't see largely the public gain. We know from the MPDU program --  
37 this Council had a presentation I guess from OLO that the MPDU's are largely  
38 affordable only to people making in the upper bracket of MPDU eligibility - something  
39 like 65% to 70%. And we know from another presentation that the workforce housing,  
40 which has yet to be produce, is most likely only affordable to people making 120% of  
41 the upper end of the workforce housing bracket; 120% of median income. That doesn't  
42 strike me exactly as affordable housing. The Falkland rents right now are among the  
43 lowest in Silver Spring, but they're moving up. And the projected rents in the new  
44 Falklands put the Falklands at the top of Silver Spring rather than at the middle to the



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1 bottom of Silver Spring in terms of pricing. So overall, I don't see this as particularly a  
2 positive development. It doesn't replace everything on site. And when I think about  
3 replacing things on site, I think of that as the baseline and then gaining additional  
4 affordable housing onsite in addition to what we preserve onsite. So I'm not comfortable  
5 with this. But I really think this Council shouldn't be doing zoning for one project.

6  
7 President Praisner,  
8 Councilmember Floreen?

9  
10 Councilmember Floreen,  
11 Thank you. Well, I have to say by the time we're done today we will have driven up the  
12 cost of land and the cost of every single housing unit, period. End of story. So to make  
13 accommodations for one project that we know is going to deliver. We've already made  
14 an accommodation -- the committee recommendation protects the County's project' Lot  
15 31 in Bethesda. That's the other one in the queue that has been approved. So I don't  
16 think this is a time to split hairs. I think this is a time to talk about what we believe in  
17 terms of policy objective. And this is real. This is possibly attainable given the costs  
18 we're about to apply. But it's doable. And I think it is sound public policy to support good  
19 projects that achieve agreed-upon public goals.

20  
21 President Praisner,  
22 Councilmember Berliner.

23  
24 Councilmember Berliner,  
25 I think I'm going to be in the splitting hairs count. And I will be offering an amendment to,  
26 quite frankly, I don't know what at this point. I seek the guidance of the Council  
27 President. I believe it lies with respect to the January 1 date committee  
28 recommendation.

29  
30 President Praisner,  
31 Committee recommends January 1.

32  
33 Councilmember Berliner,  
34 For those projects that -- .

35  
36 President Praisner,  
37 Councilmember Ervin has moved to amend it to November 13<sup>th</sup>, with the exception of  
38 projects that have already received Planning Board approval. So it is plans that are  
39 before the Planning Board from January 1st on is the committee's recommendation.

40  
41 Councilmember Berliner,  
42 Yes. And my amendment would accept the committee's recommendation but for those  
43 projects with 100 affordable units or more as part of their project. So I would amend the  
44 committee's recommendation -- .





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1  
2 President Praisner,  
3 There is a motion on the floor which is Councilmember Ervin's amendment.  
4  
5 Councilmember Berliner,  
6 All right. So should I -- I seek guidance from my parliamentary experts as to whether  
7 or not I could -- should be amending, if you will, Councilmember Ervin's -- .  
8  
9 President Praisner,  
10 I don't think you can.  
11  
12 Councilmember Floreen,  
13 Substitute.  
14  
15 Councilmember Berliner,  
16 So that would be a substitute. Help me out here.  
17  
18 President Praisner,  
19 But friendly.  
20  
21 Councilmember Berliner,  
22 I've got a friendly amendment to that. Well, some people think it's friendly. Other people  
23 think it's -- I will let you cogitate -- .  
24  
25 President Praisner,  
26 There's an amendment on the floor.  
27  
28 Councilmember Ervin,  
29 Right.  
30  
31 President Praisner,  
32 That would move the date to November 13th. Councilmember Berliner would like to  
33 substitute for that amendment, which is the substitute to the committee's  
34 recommendation, would like to substitute exempting any developments that have 1,000  
35 or more -- .  
36  
37 Councilmember Berliner,  
38 A hundred.  
39  
40 President Praisner,  
41 A hundred or more? Hundred or more.  
42  
43 Councilmember Berliner,  
44 I don't think we're getting 1,000.



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1  
2 President Praisner,  
3 A hundred or more affordable -- meaning MPDU units.

4  
5 Councilmember Berliner,  
6 Yes. Does that work?

7  
8 President Praisner,  
9 Don't you have to dispose of Councilmember Ervin's motion first?

10  
11 Marc Hansen,  
12 That would be one option. Generally Robert's rules do allow two amendments.

13  
14 President Praisner,  
15 Right. Yes. But that's a secondary amendment and we would deal with it first, correct?

16  
17 Marc Hansen,  
18 Well, you could -- Mr. Berliner could, under Robert's rules, I believe, could -- would be in  
19 order for him to move his amendment at this juncture.

20  
21 President Praisner,  
22 Secondary amendment to her amendment which we would have to dispose of first  
23 before we go to Ms. Ervin's.

24  
25 Marc Hansen,  
26 Ms. Ervin's November 13th. Yes.

27  
28 Councilmember Berliner,  
29 If I could, could I speak to the amendment?

30  
31 President Praisner,  
32 I'm looking for a second.

33  
34 Councilmember Berliner,  
35 Is there a second? That's a good move.

36  
37 Councilmember Berliner,  
38 Let me share with my colleagues why I offer that for your consideration. Unlike my  
39 colleague Councilmember Elrich, who I have deep respect for; I don't perceive our vote  
40 here to be a vote with respect to what the Planning Board does with respect to this  
41 project. Whether or not the project of this magnitude is appropriate for Silver Spring will  
42 be decided by those vested with that responsibility, not us. Our decision is much more  
43 narrow than that. Our decision is whether or not the new rules that we have come up  
44 with, good rules in my judgment, should be made applicable to a project of this nature



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1 that is offering to do as much for affordable housing as any project that we have seen in  
2 quite some time. It's not to say it's perfect. But it does have widespread support. And  
3 fundamentally, it really isn't even about all the rules. It is about one rule in particular.  
4 Because we are confident -- many of us are confident that the school test will be  
5 achieved as a function of the CIP and that we'll get out of moratorium in that district. We  
6 are confident that that when we approve the CIP, that we will also be out of the school  
7 payment issue. What is fundamentally at issue really is the applicability of the  
8 transportation test to this project; a transportation test that is very different than that  
9 which would have been in place before. And I who was a chief proponent of the new  
10 transportation test do ask myself is it appropriate that this project pay its fair share in  
11 terms of mitigation in Silver Spring with respect to this? And I think it's a very close call.  
12 But I think we do have legitimate competing values here with respect to a project that is  
13 very much embraced by the community, a project that is doing more for affordable  
14 housing than many projects, and whether or not it is appropriate. Eleven months after  
15 we started this process to make the rules applicable to what some perceive to be a very  
16 positive project that will be decided by the Planning Board. My understanding is that  
17 HOC and others feel very strongly with respect to this project, that the County Executive  
18 feels very strongly with respect to this project, that AIM, who is here, feels very strongly  
19 with respect to this project. And we are talking about a unique project. It is not zoning. It  
20 is recognizing that we have conflicting public policy objectives here and that in this  
21 instance when our district representative says this is important to her, I believe that  
22 some deference should be paid with respect to that. So it is on that basis that I believe  
23 that it is appropriate to recognize the unique qualities with respect to this project, but  
24 otherwise have our rules be applicable on a going-forward basis as we announced at  
25 the time, which was people were on notice that if you're -- if you haven't been acted  
26 upon, the new rules will be otherwise applicable. So that's my explanation. And I thank  
27 my colleagues for their consideration.

28  
29 President Praisner,  
30 Councilmember Ervin.

31  
32 Councilmember Ervin,  
33 I really appreciate your amendment Councilmember Berliner, and I agree with your  
34 stated -- what you just stated about competing public policy goals. I have to just say  
35 that, you know, it's been an interesting year sitting at this dais and really listening to all  
36 the conversation back and forth about this annual Growth Policy. And again, I've had a  
37 very much of a minority point of view in more ways than one on the issue of affordable  
38 housing. Many years ago I was a union organizer, and I remember one of the things we  
39 learned is when we went to knock on someone's door and the way we would assess  
40 where that person was, was not necessarily what the person told us or what the person  
41 said, but we assessed where that person was based on what that person did. And I  
42 think we're going to be judged on this dais, especially as it relates to affordable housing.  
43 Not on what we've been saying about our desire in a public policy sense to promote  
44 affordable housing, but people will judge us based on what exactly we have done. And



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1 so, we have an opportunity to actually do something to net affordable housing in this  
2 county. And I think this is one of those cases where we need to make a very tough call.  
3 For some of us it may be more tough than others. But I think it's the right thing for us to  
4 do. I appreciate Councilmember Berliner's amendment. And I will support it.

5  
6 President Praisner,  
7 Councilmember Elrich?

8  
9 Councilmember Elrich,

10 You know, we're talking about the net gain of this project is a 100 workforce housing  
11 units. So this isn't exactly an affordable housing project. If this Council wants to do  
12 something about affordable housing in Montgomery County, it's had ample opportunities  
13 to do something about it. We have -- the biggest problem in affordable housing in this  
14 county is rental housing for which this Council has absolutely no voice and no  
15 prescription of anything to do about rental housing. This is where the crunch is. This is  
16 where thousands of people are being displaced every year. And for these thousands of  
17 people, this Council has absolutely no solution at all and no ideas at all. Well there are  
18 some ideas but certainly not enough ideas to get five votes. I would remind my  
19 colleagues that -- I agree with Roger's analysis. I think in fact this thing will pass the  
20 school test when the school budget is done. And what's left is the transportation test.  
21 And since this is not an area in moratorium, this simply requires mitigation. Home  
22 Properties is in a position to pay for mitigation. This is not a poor company. Their recipe,  
23 according from an article in the Kiplinger.com is they buy older apartment buildings,  
24 spruce them up, add such amenities as pools, and then increase rents. That's what  
25 these guys do. They make a lot of money. They're an extraordinarily profitable  
26 company. They're in a position to pay for the transportation improvements. And if this  
27 was a teeny little project like 50 units, then I could look at this and say no big deal. But  
28 this is 1,000 units. And 1,000 units are going to have an impact on the schools and on  
29 the roads. That's absolutely one of the worst intersections around, and the primary  
30 direction of travel out of that corner is going to be on East-West Highway heading  
31 towards Bethesda and up 68<sup>th</sup> Street heading towards the beltway and Georgia Avenue,  
32 both of which aren't functioning terribly well at this point. And I don't see the point of  
33 exempting them from the test. They can pay the fees. They've got the resources to pay  
34 the fees. We're going to deal with the school issue. And I don't see any reason to  
35 exempt them from the same things everybody else is going to be going under.

36  
37 President Praisner,  
38 Councilmember Berliner.

39  
40 Councilmember Berliner,

41 Only one observation with respect to my colleague's comments on rent subsidies and  
42 things of that nature and the need to provide more help with respect to rental that I  
43 would observe that I believe that this project quote has agreed to extend the existing  
44 rent supplement program for 44 units for 20 years and add five more units for a total of



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1 49 units. So there is a recognition even in this particular project that people -- that this  
2 project is taking steps to help renters meet their needs. And I agree with my colleague,  
3 this in no way is a panacea for our affordable housing dilemma. But it is one thing we  
4 can do. It's concrete. And you're right, it puts us in conflict with other transportation  
5 objectives that we have, and so we have to make a choice. I acknowledge that.

6  
7 President Praisner,  
8 Councilmember Ervin, your mike is on.

9  
10 Councilmember Ervin,  
11 I'm sorry. Just one quick note. Those 44 units were about to expire. So this owner has  
12 agreed to do this because these units are all going to be expiring. You can smirk if you  
13 want to, but I think this is a very important thing that we're doing.

14  
15 President Praisner,  
16 Okay. The motion before us is Mr. Berliner's motion that would provide an exemption  
17 from the test for any plan that provides 100 or more affordable housing units. Is that  
18 correct? It's been moved and second. All in favor of the motion? Councilmember Ervin,  
19 Floreen, Trachtenberg and Berliner. Those opposed, Councilmembers Elrich, Praisner,  
20 Andrews and Knapp. The motion fails. We're back to Councilmember Ervin's original  
21 motion. All in favor of that motion, please indicate by raising your hand. Councilmember  
22 Knapp, Floreen and Ervin. All opposed, Councilmember Andrews, Berliner,  
23 Trachtenberg, Elrich and Praisner. So the effective date would be January 1st, 2007, is  
24 the committee's recommendation with the exception of plans that have already been  
25 approved. Are there -- there's the -- the next item is the public agency consent on  
26 subdivision conditions which Council staff recommends adding text on Circle 9 and  
27 Circle 16 to require that the public agency consent to an improvement that the agency  
28 would fund, build or maintain before it can be approved as the preliminary plan  
29 condition. On that item, Councilmember Elrich. Okay. Is there any -- yes, Royce?

30  
31 Dr. Hanson,  
32 Madam President, I think this is really not a very good idea. The Planning Board  
33 certainly considers all public agency recommendations at the time of subdivision.  
34 They're always taken into account. They provide written comments both at the  
35 Development Review Committee sessions. The conditions that are imposed on  
36 subdivisions normally require that the applicant comply with the requirements that had  
37 been recommended by the agency. Anything that goes into a public right-of-way, for  
38 example, has to be approved by the Department of Permitting Services before it can be  
39 built. If the agency -- if any agency does not agree with the provisions that the developer  
40 is proposing or that the board might approve, the developer is at risk, because they  
41 can't fulfill the conditions and then would have to go back to the board for an  
42 amendment of their subdivision plan. And finally, to do this at subdivision, before site  
43 plan, before record plat, really means that in some cases if it's a substantial public  
44 improvement of some kind, the developer has to put out a great deal of design money



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1 and effort before they have any idea of whether the thing will be approved at all. So it  
2 seems to me that the proper place for this is where it has been, which is at the site plan;  
3 that before we record the site plan, they have to have a written agreement with the  
4 agency that it will accept the improvement that it is either dedicating or building. I think  
5 this is a solution that doesn't address a problem. And it's just not well-advised. In a more  
6 fundamental sense, it places any public agency, state highways, DPWT, DPS,  
7 Department of the Environment, any agency in a position of vetoing a recommendation  
8 that might be included as a condition in a subdivision regulation. There may be  
9 instances in which the board grants waivers of a condition such as sidewalks on both  
10 sides of a road where there may be a disagreement. But again, they're ultimately has to  
11 be acceptance of the project before the project can proceed.

12  
13 President Praisner,

14 Okay. I have several lights. I think there is some question or concern about the basis of  
15 both this request and the response. I'm going to turn to Councilmember Floreen, Chair  
16 of T&E.

17  
18 Councilmember Floreen,

19 Thank you. Mr. Gonzalez, what would be the situation that raises your concern?

20  
21 Mr. Gonzalez,

22 From time to time the Planning Board approves subdivisions and places conditions on  
23 them and issues an opinion which is the legally binding subdivision approval process.  
24 Then as part of those conditions they say that we have to participate or we have to  
25 enter into agreements with these developers. And then when you try to reach  
26 agreements with the developers, it's impossible because you have not been at the table.  
27 Yes, we provide comments. And yes, the Planning Board takes those comments into  
28 consideration. But they don't necessarily look at the civility of implementing those  
29 recommending. So the problem is not with our willingness -- we're always willing to do  
30 things, the problem is there are regulatory conditions we cannot meet or the citizen  
31 opposition that will result in chaos or that are historic situation -- that are issues  
32 associated with historic areas. Planning Board approves something, contribute half a  
33 million dollars to this project and then who is going to implement that project? So those  
34 kinds of things, once the opinion is issued, it's very difficult to go back and is not  
35 necessarily that there is going to be a lot of design money invested, it's an issue of  
36 where we are willing and the government is willing to put the money, and if it's going to  
37 be feasible to implement because of regulatory issues that we have to deal with.

38  
39 Ms. Schwartz-Jones,

40 If I may, I think this is part of a bigger issue on timing that we've heard before. And  
41 maybe we ought to put this on our to-do list. To identify -- one of the concerns is that  
42 developers will go along pretty far into the process spending money on one set of  
43 assumptions only to find out right before they're ready to go to record plat, which is  
44 before they're ready to build their developments that there may be issues in getting the



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1 contract in place in order to implement what the requirement is. And so maybe as part  
2 of our to-do list what we can do is we can identify the situations in which this comes up  
3 and maybe come up with a better process rather than trying to throw it into this.

4  
5 Councilmember Floreen,

6 Well, this was supposed to be, I thought, something that was -- we were going to have  
7 coordination agreement between County Executive staff and Park and Planning on  
8 these kinds of things. Because it certainly -- I think what Park and Plan is saying is you  
9 put in something of a preliminary plan which is the definition of the adequate public  
10 facilities obligation at that moment in time with, I guess, the expectation that it will be  
11 revised by site plan. That's the period of working this stuff out; is that what you're  
12 saying?

13  
14 Dr. Hanson,

15 I don't know that this has really much to do with the adequacy of public facilities.

16  
17 Councilmember Floreen,

18 That actually is the decision you make at preliminary plan.

19  
20 Councilmember Floreen,

21 Public facilities that someone else has to construct to satisfy all these tests.

22  
23 Dr. Hanson,

24 These are facilities that someone else has to construct. They are normally placed as a  
25 condition on a preliminary plan so that the public agency is not required to construct  
26 them.

27  
28 Councilmember Floreen,

29 No, but that -- .

30  
31 Dr. Hanson,

32 We don't require the public agency at preliminary plan of a private application to  
33 construct anything.

34  
35 President Praisner,

36 That's not the point he's making.

37  
38 Councilmember Floreen,

39 The issue is -- .

40  
41 Dr. Hanson,

42 I don't know what point they are making.

43  
44 Councilmember Floreen,



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1 Okay. That's proof of the pudding.

2  
3 President Praisner,  
4 Yes.

5  
6 Councilmember Floreen,  
7 If that's a concern. I'm very sympathetic to the department. Simple issues such as  
8 constructing a sidewalk along one side, say, of Falls Road, which staff has been  
9 engaged in now for how long? Just to work -- something -- most of the decision-makers  
10 support, but it's the guys in the trenches who have to go out and explain, justify and  
11 work it out. It's not a simple, simple task. Okay. Well, I understand the range of the  
12 issues.

13  
14 Dr. Hanson,  
15 We would be glad if there is a problem, to put it on the to-do list to study.

16  
17 Councilmember Floreen,  
18 What is your concern about having their agreement that this is -- that's why we are  
19 doing the road code thing because there's so much disagreement right now between  
20 what Planning staff want and what the department wants to develop some clear rules.  
21 What's the challenge of having their consensus at preliminary plan on whatever it is you  
22 say is necessary?

23  
24 Dr. Hanson,  
25 There may be something -- .

26  
27 Councilmember Floreen,  
28 They are the guys -- .

29  
30 Dr. Hanson,  
31 There may be something that I'm missing on this. Apparently there is. But I can't recall a  
32 single instance in the months that I've been back at the Planning Board in which a  
33 transportation measure recommended by DPWT was not required. I can remember a  
34 few instances in which recommendations made by an agency were not accepted or for  
35 which after hearing we granted a waiver when we had the authority to grant a waiver. Or  
36 if we didn't, we've requested a waiver from the agency which normally has been  
37 granted.

38  
39 President Praisner,  
40 But I thought the issue was one of concern about implementation afterwards that based  
41 on a Planning Board requirement in the preliminary plan process that later fell to a  
42 question of whether it meets the standards or requirements which sounds an awful lot  
43 like the road code issues to me, which is, I think, what Councilmember Floreen was  
44 commenting on.





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1  
2 Councilmember Floreen,  
3 That's the whole point.

4  
5 President Praisner,  
6 Rather than add the language at this point, I'd like to take Ms. Schwartz-Jones'  
7 comment and try to have us have some further clarification of the issues and way of  
8 resolving them rather than automatically saying you have to approve something -- that's  
9 strong language -- versus non -- just comment. I think at this point if we could ask staff  
10 to craft some language that we can look at this afternoon as well related to -- we already  
11 have the queuing language we're going to look at this afternoon.

12  
13 Councilmember Floreen,  
14 That's fine. That's the way to do it.

15  
16 President Praisner,  
17 Why don't we do that and then we can see -- we can ask you to come back. It may be  
18 that all of this will be resolved through the road code process. But there may be other  
19 things -- .

20  
21 Dr. Hanson,  
22 The language here is much broader than DPWT. It relates to any public agency.

23  
24 President Praisner,  
25 I understand that. Right. I agree. And that's true.

26  
27 Councilmember Floreen,  
28 We have a situation with the recreation department I believe.

29  
30 President Praisner,  
31 Right. We do, and we have the issue with the Parks Department sometimes. Part of  
32 Park and Planning, and we have this issue as it relates to state agencies. So that's why  
33 I think folks crafting something that we could look at would probably be helpful for  
34 further work and exploration rather than to say -- .

35  
36 Dr. Hanson,  
37 For us to grapple with this, it would be very helpful to have specifics.

38  
39 President Praisner,  
40 And that's what the work would do would be identify some of the issues. But we're not  
41 going to resolve it here, Mr. Faden.

42  
43 Mr. Faden,



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1 So what you would like staff to develop between now and this afternoon is essentially a  
2 sharpened definition of the problem to put on the to-do list.

3  
4 President Praisner,  
5 Yes.

6  
7 Mr. Faden,  
8 And the timing.

9  
10 President Praisner,  
11 Well, the next nine months or so, because we want to have it done at the same time as  
12 we're doing the road code. August 1st. Because we should look at this at the same time  
13 as we're looking at the road code issues. Councilmember Elrich.

14  
15 Councilmember Elrich,  
16 I just want to be clear. These aren't only road code issues though, right?

17  
18 President Praisner,  
19 No, I know. I agree.

20  
21 Unidentified,  
22 Yeah, absolutely.

23  
24 Councilmember Elrich,  
25 If staff is going to draft something, should the parties that seem to have this  
26 disagreement about how the things work out, should is there be some additional --  
27 between now and this afternoon shouldn't they talk a little bit? Because I'm just worried  
28 that -- .

29  
30 President Praisner,  
31 I'd rather have them talk to our staff and have our staff draft it than have either one of  
32 them draft it.

33  
34 Mr. Gonzalez,  
35 Which we would be delighted to do.

36  
37 Councilmember Elrich,  
38 And I was only suggesting that there actually be a discussion before this comes back to  
39 us. I mean, it would not serve -- I don't think it would serve us -- .

40  
41 President Praisner,  
42 I think that's a good point. And the question is how you sharpen this issue. I think the  
43 issue is not being clearly defined for the Council. But we want folks to look at the issue  
44 and bring something back to us about the issue and how to resolve it. If you determine



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1 there is an issue. But a conversation I think as Councilmember Elrich in suggesting, be  
2 careful when you sharpen it that you don't narrow it too much to the road code.

3  
4 Councilmember Elrich,  
5 I was going to say just to not sharpen anything going into the discussion because it  
6 could be dangerous.

7  
8 President Praisner,  
9 Let's look at it this afternoon. We can always decide not to include it.

10  
11 Councilmember Elrich,  
12 Did your questions get into analytical? In other words, like if something is proposed in  
13 preliminary, is your objection partly to analysis of whether or not what's been proposed  
14 may actually be effective or is it simply design issues?

15  
16 Mr. Gonzalez,  
17 The issue is not what the Chairman said that our comments are not considered or  
18 [inaudible]. The issue is that the board puts conditions that then we or any other public  
19 agency cannot implement because of regulatory problems. And then having it done at  
20 the record plat is too late. It's very difficult. There is already a legal opinion. We'll work  
21 with my Mike and Kathleen on language that is -- .

22  
23 President Praisner,  
24 Council Vice President Knapp.

25  
26 Vice President Knapp,  
27 I just want to understand. So from your perspective it's truly a regulatory issue? It's an  
28 implementation of regulatory issue?

29  
30 Mr. Gonzalez,  
31 The problems that we find in implementing those requirements are regulatory problems.  
32 We cannot do it because there's a wetland, because there is a historic site, because  
33 there is -- and we can't anticipate those types of issues before it becomes a condition.

34  
35 Vice President Knapp,  
36 So it doesn't have to do with projects that you wouldn't have done otherwise or  
37 changing the CIP; it has to do with just implementation issues?

38  
39 Mr. Gonzalez,  
40 Yes. We are always -- .

41  
42 Vice President Knapp,  
43 That's fine on my comments. They'll figure it out.



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1 Ms. Schwartz-Jones,  
2 But the expansion of the issues is beyond [inaudible].

3  
4 President Praisner,  
5 Why don't we bring it back this afternoon?

6  
7 Vice President Knapp,  
8 Let's bring it back then.

9  
10 President Praisner,  
11 And then let's see where we are. On the next issue, we finished the issues to be  
12 addressed in the future. Which means that there's no other item as far as the resolution  
13 is concerned. Marc.

14  
15 Councilmember Elrich,  
16 I wanted to make an amendment to metro station policy area.

17  
18 President Praisner,  
19 Amendment to the work plan or amendment to the policy?

20  
21 Councilmember Elrich,  
22 Back on page Circle 18. I raised this last time about the fees in the metro policy areas.  
23 And I was prepared to prepare this 75% as a flat fee. I'd like to -- I'd still like to take that  
24 last bullet and instead of saying pay the applicable general district development impact  
25 tax, I'd like to make it pay 75% of the applicable general district development impact tax.  
26 And my reasoning is that these are projects that are being required to perform  
27 extraordinarily high measures of trip reduction which come at a great cost to the project.

28  
29 President Praisner,  
30 Okay, let's see if there's a second. All right. Vice President Knapp has seconded. You  
31 can continue, Marc.

32  
33 Councilmember Elrich,  
34 So my goal is since we're requiring massive amounts of mitigation or actual real trip  
35 reduction at a great cost in order to achieve this that I thought that 75% rather than the  
36 100% would be more appropriate in this case.

37  
38 President Praisner,  
39 Comments from anyone? Okay. The motion -- Roger, did you hear that? The motion in  
40 front of us would take Metro Station Policy Areas and pay 75% of the applicable general  
41 district development impact tax without claiming any credits for transportation  
42 improvements.

43  
44 Dr. Orlin,



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1 This is under the alternative review.

2  
3 President Praisner,  
4 Pardon me.

5  
6 Dr. Orlin,  
7 This is under the alternative review procedure.

8  
9 President Praisner,  
10 The alternative review.

11  
12 Vice President Knapp,  
13 Where exactly is it?

14  
15 President Praisner,  
16 On Circle 18.

17  
18 Vice President Knapp,  
19 Where?

20  
21 President Praisner,  
22 The last bullet right before TA2.

23  
24 Mr. Faden,  
25 It also comes up in Bill 10-07, so whatever you do here we'll put in there also.

26  
27 President Praisner,  
28 Would automatically change that bill.

29  
30 Vice President Knapp,  
31 So it'll say what now?

32  
33 Councilmember Elrich,  
34 Seventy-five instead of double.

35  
36 President Praisner,  
37 Well we took out double. It says pay the applicable general district impact tax. That  
38 would say pay 75% of the applicable general district development impact tax. This is the  
39 alternative review process. Councilmember Berliner.

40  
41 Councilmember Berliner,  
42 As I understand my colleagues' motivation with respect to this, it is in fact, as I believe  
43 the Chair has similar motivation, which is to encourage the alternative review process,  
44 because we can in fact achieve trip reductions there which are the highest form of



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1 mitigation. And so the objective, as I appreciate it, is to create more economic  
2 incentives, align those economic incentives with the review process that would bring  
3 about the greatest reductions; Mr. Chairman, is that consistent with your  
4 understanding?

5  
6 Dr. Hanson,  
7 Yes, this amendment would provide some incentive for using the alternative review  
8 procedure.

9  
10 President Praisner,  
11 Okay. Oh, I'm sorry, Roger, go ahead.

12  
13 Councilmember Berliner,  
14 On that basis, I do support my colleague's amendment.

15  
16 President Praisner,  
17 Okay. The motion in front of us would make the applicable general district development  
18 impact tax at the metro station policy areas in the alternative review procedure 75% of  
19 the impact tax, not the actual general district development impact tax rate.

20  
21 Mr. Faden,  
22 75% of the general district.

23  
24 President Praisner,  
25 District -- right. Okay? All in favor of the motion? Councilmembers -- that is unanimous.  
26 Okay. All right. We're now acting on the resolution then we'll move to the next items. All  
27 in favor of approving? We're approving the 2007 to 2009 Growth Policy. The whole  
28 thing.

29  
30 Unidentified,  
31 The whole thing?

32  
33 President Praisner,  
34 The whole thing.

35  
36 Unidentified,  
37 Whole kit and caboodle.

38  
39 President Praisner,  
40 Okay, all in favor of the resolution please indicate by raising your hands.  
41 Councilmembers Andrews, Berliner, Knapp, Praisner, Trachtenberg, Elrich. Those  
42 opposed?

43  
44 Councilmember Ervin,



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1 You never say my name.

2  
3 President Praisner,

4 I'm sorry, Valerie. I can't -- you know what you need to do, you need to go like that. I  
5 can't see it behind Marc. Councilmember Ervin. Those opposed? Councilmember  
6 Floreen. The resolution passes 7-1 with one absent. We'll now move to resolution to  
7 amend the impact tax rates. That is Item 5 -- trying to find Item 5. Okay. Councilmember  
8 Floreen. Does everybody have five?

9  
10 Councilmember Floreen,

11 Right. Thank you, Madam President. For reasons I can't quite explain, staff didn't get  
12 around to following up with my proposal last week that I thought there was some  
13 consensus on. It's certainly reflected in the minutes, to make provision for local social  
14 service providers. We spent some time doing wordsmithing, and we've come up with  
15 additional language to define a local social service provider.

16  
17 President Praisner,

18 I think that has to be in the amendment to the Bill first, doesn't it?

19  
20 Mr. Faden,

21 It would be in both.

22  
23 Councilmember Floreen,

24 It's just the tax rate issue.

25  
26 Mr. Faden,

27 Well, you have to define the term which would go in the Bill. But then the rate you set for  
28 them would go in the resolution.

29  
30 President Praisner,

31 Right. But we're doing the resolution first. Shouldn't we do the Bill first?

32  
33 Mr. Faden,

34 We can take the definition -- assuming -- if you go with this, we would take the definition  
35 and plug it in the Bill.

36  
37 President Praisner,

38 Okay.

39  
40 Councilmember Floreen,

41 All right. As you will recall, this was triggered by the comments of one social service  
42 provider as to the extraordinary impact tax rates that they were asked to assume, and  
43 we -- there was some research into it and some -- what you'll recall hearing last week,  
44 we heard that there is periodically, and I guess regularly some negotiation as to impact



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1 tax rates for social service providers. I don't think that our Growth Policy is intended to  
2 make unaffordable facilities that are devoted pretty much -- primarily, if not exclusively,  
3 to local service of the needy, which is what we're talk being here. These are not money-  
4 grubbing developers nor money-grubbing businesses. These are service providers. And  
5 so to avoid the concern that was raised as to the national institutions that we agree  
6 have -- are -- with resources to pay fees, we came up with some additional language  
7 that I would propose, which is defining a social service provider as a locally based non-  
8 profit direct provider of social services whose primary service area is Montgomery  
9 County. And I would propose that we put that in the -- offer that explanation so as to  
10 eliminate the parent debate that goes on rather regularly among staff and DPS and  
11 whoever else gets involved in assessing impact tax dollars. And I would put -- my  
12 proposal is to treat that as we treat hospitals and bioscience facilities, which is not to  
13 impose an impact tax.

14  
15 President Praisner,  
16 Okay. Your proposal would add to the item we have in front of us on Circle 2 on  
17 nonresidential general.

18  
19 Councilmember Floreen,  
20 Yes.

21  
22 President Praisner,  
23 Local -- a social service provider.

24  
25 Councilmember Floreen,  
26 Yes.

27  
28 President Praisner,  
29 And it would be zero rate.

30  
31 Councilmember Floreen,  
32 Correct.

33  
34 Dr. Orlin,  
35 It would apply to all three -- it would also apply to Metro Station in Clarksburg.

36  
37 Councilmember Praisner,  
38 Right, all three areas. But that's the category where it needs to be included under  
39 nonresidential general, metro station and Clarksburg, I guess, whose hospital appears  
40 in all three. The confusion here, I think, is that staff has dealt with this issue in the  
41 legislation, not in the resolution where staff is recommending -- well, first of all, I think  
42 we have had several conversations about concerns with DPS' application of the impact  
43 tax and some issues that have arisen. Staff is recommending rather than amending the





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1 law and the resolution to deal with this through the conversation and implementing  
2 regulations, which we don't have revised as yet, which was asked for.

3  
4 Councilmember Floreen,  
5 I appreciate that. But the fact of the matter is, unless we direct a solution, it's not going  
6 to be implemented. There's always a judgment call. We're not talking about school  
7 facilities. We're not talking about -- we're talking about social service providers. And our  
8 poor DPS staff has to exercise a lot of discretion in analyzing this stuff. And if we can  
9 help them in advancing public policy that we think is important, I think we should do it in  
10 the resolution.

11  
12 President Praisner,  
13 Okay. Ken, would you accept as a friendly amendment some language that deals with  
14 its tax status language so it isn't a self-identified nonprofit but one that has been certified  
15 so 501 C3.

16  
17 Unidentified,  
18 That's fine.

19  
20 Mr. Faden,  
21 Federally tax exempt.

22  
23 Councilmember Floreen,  
24 I had asked staff to [inaudible].

25  
26 President Praisner,  
27 Federally tax exempt.

28  
29 Councilmember Floreen,  
30 Yeah, that's fine.

31  
32 Vice President Knapp,  
33 Locally-based, federally tax exempt nonprofit.

34  
35 President Praisner,  
36 Direct provider of social services whose primary service area is Montgomery County.  
37 Okay? The lights on this item. Councilmember Berliner.

38  
39 Councilmember Berliner,  
40 Just to commit my colleague, I support the amendment and think it's appropriate for us  
41 to give this guidance. Do I appreciate that what we are talking about here is a zero  
42 increase or a zero rate? And what was the previous?

43  
44 President Praisner,



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1 Zero rate.

2  
3 Councilmember Floreen,  
4 Zero rate.

5  
6 Councilmember Berliner,  
7 And previously it was?

8  
9 President Praisner,  
10 Zero for hospitals.

11  
12 Councilmember Berliner,  
13 There was not rate.

14  
15 President Praisner,  
16 It's the same for hospitals and bio -- .

17  
18 Councilmember Berliner,  
19 It was anything in fact.

20  
21 Councilmember Floreen,  
22 It was subject to debate.

23  
24 Councilmember Berliner,  
25 I think the clarification is appropriate and commend my colleague for initiating it.

26  
27 President Praisner,  
28 Further lights, all in favor of the motion. Councilmembers -- I see your hand Valerie, it's  
29 unanimous. Okay. Then we have the resolution in front of us. All in favor of approval of  
30 the resolution? It is unanimous. We'll now move to the impact tax legislation. We need  
31 to obviously make the modification that we've done as far as social service -- put the  
32 definition in here of a social service provider as a locally-based tax-exempt nonprofit  
33 direct provider of social services whose primary service area is Montgomery County.  
34 And that would appear under the definitions.

35  
36 Mr. Faden,  
37 It would appear basically at the top of Circle 3 where the three asterisks are.

38  
39 President Praisner,  
40 It would be a Line-28 addition then. Okay.

41  
42 Mr. Faden,  
43 Right.



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1 President Praisner,  
2 All right. Go ahead, Glenn.

3  
4 Dr. Orlin,  
5 Also at the top of Circle 5 Part B basically what you did earlier about the 75% for  
6 alternative [inaudible].

7  
8 President Praisner,  
9 I'll do that next. I want to deal with this one just from technicality; I'm going to assume  
10 Councilmember Floreen has made that motion, and that it has been seconded. So my  
11 colleagues need to vote on adding this definition on social service providers. It would  
12 appear right at Line 28 where the asterisks are on Circle 3. All in favor of the  
13 amendment to the legislation? That is unanimous. Okay. And now we have to deal with  
14 the Metro Station Policy Area for the Alternative Review Process. And where is that  
15 language, staff?

16  
17 Mr. Faden,  
18 Top of Circle 5 you would basically put back in the double bracketed new sentence on  
19 Line 77 to 81 and on Line 79 it would say would pay the tax at 75% of the rate.

20  
21 President Praisner,  
22 Listed in the subsection for the same type of development in the general district.

23  
24 Mr. Faden,  
25 Right.

26  
27 President Praisner,  
28 Okay. Councilmember Elrich, I'm going to assume you made that motion. Is there a  
29 second? Councilmember Berliner. Further discussion? Is there anywhere else this  
30 needs to appear?

31  
32 Unidentified,  
33 Uh-uh.

34  
35 President Praisner,  
36 Okay. All in favor of the amendment on Line 79 Circle 5 which would introduce the 75%  
37 as was our action earlier in the resolution. All in favor of the motion? That is unanimous.  
38 Other items, Mr. Faden?

39  
40 Mr. Faden,  
41 One more pretty much clarification in this Bill on Circle 7 requested by HOC staff; I think  
42 it makes plain what we're trying to do anyway. Circle 7 Line 133 after the word "any" we  
43 would insert nonexempt. So it's any nonexempt dwelling unit located in what's referred  
44 to as an affordable development must pay the tax at 50% of the rate.



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1  
2 President Praisner,  
3 Any objections to that? We'll make that as an editorial change. Anything else?  
4

5 Dr. Orlin,  
6 Is the issue of the effective date of the Bill whether or not you want to make this an  
7 expedited Bill?  
8

9 President Praisner,  
10 Pardon me?  
11

12 Dr. Orlin,  
13 Whether or not you want to make this an expedited Bill or not.  
14

15 Mr. Faden,  
16 It's on Page 2 of [inaudible].  
17

18 Dr. Orlin,  
19 It's on Page 2 of the packet.  
20

21 President Praisner,  
22 Okay.  
23

24 Dr. Orlin,  
25 The issue is that there's several provisions that you've been talking about which if this is  
26 not an expedited bill it won't be going into effect for more than 90 days such as the  
27 affordable housing reduction for market rate units, the transportation tax, the metro  
28 station.  
29

30 President Praisner,  
31 So staff recommendation is to make it an expedited bill taking effect on December 1st?  
32

33 Mr. Faden,  
34 Right. That would have -- that would cut both ways. It would gain some revenue. It  
35 would also lose some revenue. It would basically just make the provisions consistent  
36 with the effective date of the resolution.  
37

38 President Praisner,  
39 Motion? Councilmember Andrews. Second? Vice President Knapp. All in favor of the  
40 amendment to make it an expedited bill? That is unanimous. Anything else? Then  
41 madam clerk, will you call the roll on Bill 10-07.  
42

43 Council Clerk,  
44 Ms. Ervin?



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1  
2 Councilmember Ervin,  
3 Yes.  
4  
5 Council Clerk,  
6 Mr. Elrich?  
7  
8 Councilmember Elrich,  
9 Yes.  
10  
11 Council Clerk,  
12 Ms. Floreen?  
13  
14 Councilmember Floreen,  
15 Yes.  
16  
17 Council Clerk,  
18 Ms. Trachtenberg?  
19  
20 Councilmember Trachtenberg,  
21 Yes.  
22  
23 Council Clerk,  
24 Mr. Andrews?  
25  
26 Councilmember Andrews,  
27 Yes.  
28  
29 Council Clerk,  
30 Mr. Berliner?  
31  
32 Councilmember Berliner,  
33 Yes.  
34  
35 Council Clerk,  
36 Mr. Knapp?  
37  
38 Vice President Knapp,  
39 Yes.  
40  
41 Council Clerk,  
42 Ms. Praisner?  
43  
44 President Praisner,



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1 Yes. The Bill passes 8-0. We now -- is that the end?

2  
3 Glenn Orlin,  
4 Recordation tax.

5  
6 President Praisner,  
7 Recordation tax.

8  
9 Mr. Faden,

10 You also did not do Item 5-1. I don't know if you want to take that out of order.

11  
12 President Praisner,  
13 All okay, 5.1 is the OPEB Expedited Bill, which is -- actually isn't that Legislative  
14 Session 2. Are we done with the Growth Policy? We did impact tax, which is legislation.

15  
16 Mr. Faden,  
17 You went into legislative session with this bill.

18  
19 President Praisner,  
20 Well let me do 5.1 since it's an introduction. Introduce Expedited Bill 28-07, Personnel.  
21 Other Post Employment Benefits Trust (OPEB) - Establishment, introduced by the  
22 Council President at the request of the County Executive. This is the trust that would  
23 manage the Gasby Trust Funds for Retiree Health and Life Insurance Benefits, the  
24 County's funds. And that is introduced. A public hearing is scheduled for November 27th  
25 at 1:30 p.m. Madam Clerk, a legislative journal?

26  
27 Council Clerk,  
28 You have the journal of October 30th for approval.

29  
30 President Praisner,  
31 Is there a motion?

32  
33 Councilmember Ervin,  
34 So moved.

35  
36 President Praisner,  
37 Councilmember Ervin. Second? Councilmember Trachtenberg. All in favor of approving  
38 the minutes. That is unanimous. Okay. We're back to the Legislative Session. We've  
39 done the impact taxes. We now need to deal with Bill 11-07, Recordation Tax Rate. And  
40 the bill is before us and is a committee recommendation from the Management and  
41 Fiscal Policy Committee. Councilmember Knapp.

42  
43 Vice President Knapp,



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1 Thank you, Madam President. Pursuant to the comments I made last week, I'm going to  
2 make a motion that we hold the implementation of the recordation tax until final action  
3 on the budget. I think it's May 22nd when we do it. As most of my colleagues are aware  
4 everything we're hearing from Annapolis gets worse with each passing day as it relates  
5 to the impact on our residents and the impact on the County on what we're going to be  
6 paying. With each passing day there are other indicators in the economy that appear  
7 not to be going in the direction that we'd like them to be going. And while I am  
8 understanding, and I think everyone is in agreement with trying to provide resources for  
9 the infrastructure working group and for rental housing, and I think that if our budget is  
10 as we hope it will be, these are things that the Council should and will do in May. I think  
11 at this point until we have a better sense of how the rest of the budget will play out that  
12 we should hold this until that time and then look at it in the broader context of the  
13 budget, since we can act upon this at anytime. To that would be my motion.

14  
15 President Praisner,  
16 Is there a second?

17  
18 Unidentified,  
19 Second.

20  
21 President Praisner,  
22 Moved and seconded that Bill 11-07 be held until action on the Operating Budget. Let  
23 me ask a question. Are we required to set the recordation tax by legislation? It can't be  
24 done by resolution?

25  
26 Dr. Faden,  
27 We interpret state law as requiring legislation.

28  
29 President Praisner,  
30 Okay, I just wanted to be clear about that. Okay. The Chair of the MFP Committee want  
31 to comment; Councilmember Trachtenberg.

32  
33 Councilmember Trachtenberg,  
34 Thank you, Madam President. I obviously am going to speak in support of voting on this  
35 Bill this morning. I believe that we have reason to be concerned over state revenue.  
36 However, at the same time I think we need to be concerned about the investments that  
37 we need to make in infrastructure as well as addressing some of the affordable housing  
38 crisis as best we can. And I believe that allocating funds for rental assistance is one  
39 sure way of having an ability to assist potentially hundreds of families. So I see that this  
40 is a prudent measure, again, responding to a number of recommendations that have  
41 been made not only by our infrastructure work group but really by folks in the  
42 community. So I would ask my colleagues to support the bill as it was amended by the  
43 full Council last week.



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1 President Praisner,  
2 Okay. Councilmember Berliner.

3  
4 Councilmember Berliner,  
5 I'm going to support my committee chair with respect to this and say to my colleague,  
6 the Vice President of the Council, that whereas I totally appreciate your concern with  
7 respect to our budget situation, I do think that we will have an opportunity and the  
8 County Exec will have an opportunity to examine this issue going forward. Insofar as  
9 what is before us now is one-third of the revenues that the committee originally agreed  
10 to support. That is when we came forward with our recordation tax proposal previously,  
11 it was a \$13 million revenue enhancement, which we have now pared back to \$10  
12 million. Out of that \$10 million we're giving \$5 million of it to affordable housing, which  
13 people have said we must do more for and I agree; and \$5 million for infrastructure,  
14 which the business community has said is so critical and which we are unfortunately are  
15 not going to get enough infrastructure money back from Annapolis to get anywhere  
16 close. So I perceive us as filling some important needs with respect to a modest  
17 increase and still leaving open the possibility of coming back to our original proposal,  
18 which would have generated another \$20 million to meet our budgetary needs on a  
19 going-forward basis.

20  
21 President Praisner,  
22 Councilmember Andrews.

23  
24 Councilmember Andrews,  
25 Thank you. I think the committee did improve this bill and I think it's important to note  
26 that it would not increase the recordation tax on the first \$500,000 of the home's value.  
27 The median home in Montgomery County, at least existing home that is not new, sells  
28 for about that maybe slightly under. So there's a significant amount of housing stock out  
29 there that would not see any increase in the recordation tax. And that is a big  
30 improvement in a bill that originally would have raised it on any property above \$50,000.

31  
32 Vice President Knapp,  
33 If I might, Madam Chair?

34  
35 President Praisner,  
36 Sure. Vice President Knapp.

37  
38 Vice President Knapp,  
39 I appreciate the comments of my colleagues. I would just note that through the HIF  
40 right, which certainly isn't all obligated, although there are ideas for it, we can already do  
41 rental assistance. And the amount of money that we will generate between now or when  
42 these rate would go into effect relative to when we actually undertake the budget won't  
43 be a huge sum. But it could actually tip the balance in some things that are difficult. I  
44 wish we could generate enough revenue between now and the end of June that we





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1 would be able to address transportation and rental assistance. Practically we won't do  
2 that much, but as we know when it gets down to the final analysis of our budget, a  
3 couple million dollars can make a significant difference either way for very important  
4 programs. And so I agree with infrastructure investment. I've obviously been a long  
5 supporter of that and for housing investments. I just think given the various issues that  
6 we still don't know what the answers are in the coming six months that our challenge will  
7 be to give ourselves some flexibility so that we don't lock ourselves into a hole. I  
8 appreciate what Councilmember Berliner has said. I'm not sure that raising this higher in  
9 May is going to be a real option at that time. The question will be what things may we  
10 have to forego. And I think that -- and that's why I want to try and give us the flexibility to  
11 try and address. Thank you.

12  
13 President Praisner,  
14 Okay. The motion before us which would defer action on the recordation tax until the  
15 budget consideration this spring. All in favor of the motion? Councilmembers Ervin,  
16 Floreen, Andrews and Knapp. Those opposed?

17  
18 Vice President Knapp,  
19 And here I thought it was amazingly persuasive. Thanks, Phil.

20  
21 President Praisner,  
22 That's okay. We're moving right along, so it's fine.

23  
24 Vice President Knapp,  
25 If the Council President were quicker, I could have had five votes.

26  
27 President Praisner,  
28 The motion in front of us is Vice President Knapp's motion to defer action on the  
29 recordation tax until the budget deliberations this spring. All in favor of the amendment?  
30 Councilmember Ervin, Councilmember Floreen, and Councilmember Knapp -- Vice  
31 President Knapp. Those opposed? Councilmembers Elrich, Trachtenberg, Praisner,  
32 Berliner and Andrews. The motion failed. Let me note that while I appreciate the  
33 concern, especially as incoming Council President having to put the budget together.  
34 And also I might note to folks that there is legislation in Annapolis that would take part of  
35 our recordation tax and give it to the municipalities in which it is collected. And that, of  
36 course, will come forward in the regular session, I have been told. There's nothing that  
37 prevents the Council from introducing legislation to modify the recordation tax at any  
38 time upwards or downwards. So while I did not support the Vice President's motion, I  
39 think all things may be in play later on. Stay tuned.

40  
41 Vice President Knapp,  
42 I think as Mr. Subin said a couple of years ago, everything's on the table.

43  
44 President Praisner,



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1 Yes. I think they said that in Annapolis too, but the table keeps getting a little smaller.  
2 The bill is before us for action. Madam Clerk, call the roll.

3  
4 Council Clerk,  
5 Ms. Ervin?

6  
7 Councilmember Ervin,  
8 Yes.

9  
10 Council Clerk,  
11 Mr. Elrich?

12  
13 Councilmember Elrich,  
14 Yes.

15  
16 Council Clerk,  
17 Ms. Floreen?

18  
19 Councilmember Floreen,  
20 Yes.

21  
22 Council Clerk,  
23 Ms. Trachtenberg?

24  
25 Councilmember Trachtenberg,  
26 Yes.

27  
28 Council Clerk,  
29 Mr. Andrews?

30  
31 Councilmember Andrews,  
32 Yes.

33  
34 Council Clerk,  
35 Mr. Berliner?

36  
37 Councilmember Berliner,  
38 Yes.

39  
40 Council Clerk,  
41 Mr. Knapp?

42  
43 Vice President Knapp,  
44 No.



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1 Council President Praisner,  
2 Special appropriation to the FY08 Operating Budget of the Maryland National Capital  
3 Park and Planning Commission in the amounts of \$150,000 for the sustainable quality  
4 of life indicators project and \$206,000 for the Inter County Connector environment  
5 project monitoring. A Planning, Housing and Economic Development Committee  
6 worksession is tentatively scheduled for November 19th at 2:00 p.m. Persons wishing to  
7 submit additional comments should do so by the close of business today November  
8 13th so that your views can be included in the material which staff will prepare for  
9 Council consideration. Before beginning your presentation, please state your name  
10 clearly for the record and spell any unusual names. We have three speakers, Dolores  
11 Milmoe for the Audubon Naturalist Society, Greg Smith for Sustainable Montgomery,  
12 and Judy Koenick, an individual who is also speaking on agenda item 10. I don't see  
13 Dolores Milmoe or Greg Smith so Judy, you may come forward please.

14  
15 Judy Koenick,  
16 Do you want to wait until they get here?

17  
18 Council President Praisner,  
19 No, no, no, no, no, hearing is supposed to start at 1:30, and it's well after 1:30.  
20 [INAUDIBLE] Yes.

21  
22 Judy Koenick,  
23 Do I get some of their time?

24  
25 Council President Praisner,  
26 No.

27  
28 Unidentified  
29 Good try though.

30  
31 Councilmember Floreen,  
32 Good try.

33  
34 Council President Praisner,  
35 We will give you A for effort, but no time.

36  
37 Judy Koenick,



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1 Very quickly, on the ICC, [INAUDIBLE].

2  
3 Council President Praisner,  
4 Press your button Judy please.

5  
6 Judy Koenick,  
7 Very quickly on the ICC because most of my comments are on ballfield initiative,  
8 obviously, they need to be monitored. My concern is that from history and from what I've  
9 seen in the past, that Judge Williams unfortunately used, relied on MDE and a corps of  
10 engineers to justify his decision. Unfortunately, I have got documentation that shows the  
11 corps of engineer and MDE doesn't know which end is up or their sense of direction  
12 when they said that Rock Creek does not flow north and south, when it goes  
13 perpendicular to East-West Highway. So if that's not north and south, I mean obviously  
14 they don't know what they are doing.

15  
16 Council President Praisner,  
17 Just a minute, Judy. Dolores, you're up.

18  
19 Judy Koenick,  
20 On the issue of the ballpark initiative, I have some photographs for you -- .

21  
22 Council President Praisner,  
23 There actually isn't an ballpark initiative on the agenda.

24  
25 Judy Koenick,  
26 Not the ballpark, it's maintenance.

27  
28 Council President Praisner,  
29 No, it's sustainable quality of life indicator project. Those are the two projects. The Inter  
30 County Connector and sustainable quality of life project.

31  
32 Judy Koenick,  
33 I understand. But --.

34  
35 Council President Praisner,  
36 The other item, the other agenda item -- .

37  
38 Judy Koenick,  
39 So, I come back up for that?

40  
41 Council President Praisner,  
42 No, you can speak now but you just needed to remember --.

43  
44 Judy Koenick,



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1 Well, whatever it is, it has to do with ballpark.

2  
3 Council President Praisner,  
4 Right. Right.

5  
6 Judy Koenick,

7 Anyhow, my comments on the ICC were simply that unfortunately I guess, we have to  
8 monitor them, but if we're going to monitor them and give anyone money to monitor  
9 them, then as soon as they are in channeled spots shut them down and fine them. And  
10 I'll speak with her later. On the maintenance of the ballpark field, obviously with  
11 autographed balls, -- for signatures on it, my hat, my shirt, and the other shirt which  
12 says we even can find fans in Anchorage, Alaska, and so forth like that, maintaining  
13 ballfields is a very important item. However, my concern is that when they construct  
14 them, and you need to ask Park and Planning Commission, are any of them at any point  
15 located in the floodplain? They put one in down here at -- behind --, and the young man  
16 back there said he was the one after two years who had it taken out. But this is not  
17 where you want to have ballfields, where when you hit the ball it goes over the path and  
18 into the playground at the synagogue. And these little marks here, because it's a little  
19 hard to see in these photographs -- that you look at shows where the backstop was and  
20 a well-hit ball to the right would have probably been out on East-West Highway. So  
21 when you do ballfields, you need to make sure they are in a spot where the  
22 maintenance work is going to be worth the effort and the time and the money and not  
23 have to go in and rebuild them after you get a normal heavy rain, and that was in 2005,  
24 not 2006. Again, to show you my interest, this is when Bonds struck out for the 195th  
25 time. I think we need to find out how many of these ballfields anywhere are in the  
26 floodplain and how they grade them. Because when they did the grading of not this one  
27 that they had to take out through stupidity, but the one that's there now, they have it  
28 graded so the water flows down on the sides. The only problem is the water sits there,  
29 and when we have rain, it sits there for weeks and we have the mosquitoes.

30  
31 Council President Praisner,  
32 Thank you. Dolores Milmoe.

33  
34 Dolores Milmoe,

35 Yes, good afternoon, I'm Dolores Milmoe speaking on behalf of the Audubon Naturalist  
36 Society. And I'm here regarding the appropriation Bill for Park and Planning. I would like  
37 to say, though, that I have been following this issue for some time now, and it appears  
38 that while it may make sense to appropriate money for more staff, there are certain  
39 problems that I think need to be shared with the Council prior to making a decision to go  
40 forward with this. And I'll give you a couple of examples. In the document entitled the  
41 ICC Special Protection Area Water Quality Review Submittal on May 9th, 2000, this was  
42 a document drafted by County Environmental Planning staff. SHA, and I'm reminded of  
43 a few weeks ago in the Post, there was, the Office of Budget Management for the  
44 federal government submitted an impact analysis on the economy from climate change,



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1 and the Bush administration, it was a very graphic thing. I remember looking at the  
2 graphic in the Post, and it was a 12-page document, and about six of the pages were  
3 entirely blacked out. Well, if you take a look at this document, it is a five-page  
4 document. And whatever is in red has been red lined and redacted by state essentially  
5 telling Planning staff, we're not going to do this. And then inserting in yellow the  
6 language that they want to comply with. And this has nothing to do with having more  
7 staff at Park and Planning. Another thing that I know is that the SHA has submitted for  
8 review for staff incomplete maps without topography, with no wetland delineation, and  
9 asking for very quick turnaround. So I'm here to say to you as the Council and  
10 especially to those of you who support the ICC and who said that you would make sure  
11 there are stiff environmental oversight that there is a problem here, and I would suggest  
12 that one or more of you meet with the environmental staff of Park and Planning to get  
13 an unfiltered review of what the problems are and to give you context for how to solve  
14 these problems. I think it's really unacceptable to have the state dictate to us how we  
15 are to oversee our really special resources in this County. So I'm asking you to defer  
16 voting on this budget appropriation until you meet with staff. And I also want to remind  
17 you, you know, several, over a month ago, you as a body submitted letters to the  
18 Planning Commission for response, and you haven't gotten them yet, I believe. And  
19 these are not letter, these are not questions that need new staff to answer them. They  
20 have the answers. They have the answers. They are just, you're just not getting the  
21 answers. And I think in the interest of making the best of a bad situation here, we have  
22 got to have appropriate oversight for this huge project that will cause such impacts.  
23 Thank you.

24  
25 Council President Praisner,

26 Thank you very much. Greg Smith is not here, so this would close the public hearing.  
27 Judy, I just wanted to make sure, I understand what you're talking about, about  
28 wetlands issues, but the appropriation deals with school system ballfields, so we need  
29 to know specifically if any of the school ballfields fall in that category that you were  
30 raising.

31  
32 Judy Koenick,

33 Thank you. That's what I was asking you to check. But the other issue very quickly is  
34 that when they grade these sites, that they know what they are doing. If I remember  
35 correctly, I think you were President of the school board way back when these guys  
36 came up to Rock Creek, put a backstop in at the school. And said the principal  
37 approved it. The principal came back and said I never told you you could do this. This is  
38 absolutely a horrific spot where you're putting it. They had to pull it out. And the same  
39 thing as when they--.

40  
41 Council President Praisner,

42 I remember Rock Creek --very well.

43  
44 Judy Koenick,



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1 Yeah, and when they graded the field, I went up and said it's not going to work. They  
2 looked at me, oh, you know, she doesn't know what she's talking about. Well, they  
3 graded it wrong, and I was right and they were wrong. So -- .

4  
5 Council President Praisner,

6 I do remember. Thank you. We are scheduled to take action on this item at the  
7 conclusion of the public hearing on this item, but we can certainly follow up.

8 Councilmember Andrews.

9  
10 Councilmember Andrews,

11 Thank you, Madam President. I know the PHED Committee is scheduled to take this up  
12 next week and I know that they will do a very thorough job as they always do in  
13 reviewing issues before them. I will probably have some questions to ask them to work  
14 into their considerations because as Madam President has noted, as the state begins  
15 with the first segment of the Inter County Connector, it is really up to Park and Planning  
16 to monitor it and make sure that the state lives up to what it says it would do in terms of  
17 complying with environmental requirements. I say that in the context of recognizing that  
18 environmental stewardship and the ICC are really not, they're not compatible. It's really  
19 in congress, I think you can you know, put a six-lane highway through our best stream  
20 valleys and not have a severe impact. So, this is an exercise in damage control, but it's  
21 important to limit the damage as much as possible. And that really will be Park and  
22 Planning's job. And they have told us that they need the staff, they need more staff to do  
23 that, which is why I pushed them at the worksession we had with Park and Planning a  
24 couple weeks ago to come forward with this supplemental appropriation because I want  
25 Park and Planning to have adequate staff to mitigate as much damage as they can. And  
26 I hope that the Council will continue to follow this very closely because Park and  
27 Planning staff will be our eyes and ears in monitoring this project, and we need to make  
28 sure that they do a good job and have the resources to do a good job. The state clearly  
29 wants to get a shovel in the ground as soon as possible, they are pushing full speed  
30 ahead giving ridiculous timeframes for review. And Park and Planning has got to stand  
31 up and say, stop, when it's, when they get outrageous requests before them, and they  
32 have to have the staff to give the appropriate responses. So that is why I think this is an  
33 important appropriation, and I will strongly support it. But I will also work to make sure  
34 that the questions are followed up on and that Park and Planning staff really fulfill their  
35 mission. Thank you.

36  
37 Council President Praisner,

38 Thank you. Mr. Smith, we had concluded the hearing, but since you arrived and we are  
39 still in the question process, I will let you testify.

40  
41 Greg Smith,

42 Thank you very much, Council President and colleagues. I have a somewhat less rosy  
43 view of this appropriation than Councilmember Andrews. This project at Park and  
44 Planning, during this -- cycle, has had a long history of staff and the Planning Board





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1 treating the Council to some degree and especially the public and our communities and  
2 our natural resources, with utter contempt. I am appalled that after the Council put, four  
3 Councilmembers put across important questions to Planning Board Chairman Royce  
4 Hanson this spring asking for a fairly simple answer to a fairly simple question, how  
5 many homes and schools and other sensitive areas would be within a certain distance  
6 of the ICC? A question that his staff could have answered fairly quickly using resources  
7 on hand, and staff on hand, the response was essentially, no. Where is your fifth voice  
8 of concern on this important question? We don't think that we need to answer this until  
9 the, you are all debating the transportation element of the Growth Policy, and to my  
10 knowledge, we haven't seen those numbers yet. And I think that's appalling. The  
11 Council put across important questions to the Planning Board and to state highway on  
12 October 8th after a session in which neither agency was prepared or willing to answer  
13 very important questions. They essentially stiff-armed the public and the Council. And if  
14 one were to believe that everything at Park and Planning were hunky dory and that staff  
15 was entirely on this, as Mr. Hardy and Chairman Hanson would have us believe, then  
16 certainly staff could have turned around answers to those questions which were long  
17 outstanding questions within two days. And I have never seen the answers to the  
18 questions, I hope that you have. But certainly as of last week, those answers hadn't  
19 been provided. What I would hope that Mr. Hardy and state highway and Chairman  
20 Hanson would have been prepared right away to answer those questions, in fact, in that  
21 session on October 25th where you asked some of those questions face to face. We  
22 have been told all along, don't worry, be happy. But having the Planning Board and  
23 MNCPPC come to you at this late date with a request for additional resources for staff,  
24 it's somewhat akin to hiring an additional coroner for the autopsy or additional  
25 cosmetologists to work in a funeral home so they can get -- autopsy and then put a little  
26 more lipstick a little more finely on the corpse. These folks were supposed to defend our  
27 properties, to defend our parks and our natural resources. And instead, they have acted  
28 as agents for the Bush and -- administrations in attempting to fast track and ram down  
29 our throats a tremendously destructive project that has been rejected twice before on  
30 environmental and transportation grounds.

31  
32 Council President Praisner,  
33 Greg, your time is up.

34  
35 Greg Smith,  
36 -- outrageous. Thank you.

37  
38 Council President Praisner,  
39 Thank you. Councilmember Elrich.

40  
41 Councilmember Elrich,  
42 I just want to add to the issues I think that Phil raised in terms of my concerns about this  
43 process. When I read this, the document, the Inter County Connector SPA Water  
44 Quality Review, one thing that stands out is the state consistently removing references



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1 to County standards and County policies from the document and substituting only the  
2 state policies. And that has been a concern of this body for a long time. I also want to  
3 speak to the issue about staff. I'm very concerned because I know that these questions  
4 that we asked, the answers could have been produced by Park and Planning prior to  
5 this occasion. And my concern is that Park and Planning is working with the state to  
6 massage responses that are acceptable to the state. And I'm very concerned about not  
7 getting frank responses from the environmental staff at Park and Planning, unmassaged  
8 by people above the staff at Park and Planning and unmassaged by the state. If this is  
9 going to go forward, and like Phil, I'm not happy that this is going forward, but everybody  
10 made commitments that this would be done environmentally sensitive as possible way.  
11 And if Park and Planning's approach is to basically make sure that what the public sees  
12 is what the state feels is an acceptable answer, that's not acceptable. And we are  
13 entitled, I believe, to what your environmental staff is saying before those words get  
14 changed by people above the environmental staff. And I would certainly like an  
15 opportunity at some point for the environmental staff to tell us what they think about this,  
16 not have somebody above the environmental staff telling us what the environmental  
17 staff thinks. I think it's critical. My understanding is there's no time to turn around the  
18 papers in an adequate way and do adequate review. I have heard comments that by the  
19 time the comments go back to the state, the state says we have already made up our  
20 mind, this is what we are doing, so what's the point of the comments in the first place? If  
21 we're going to spend \$200,000 and the state is going to do whatever it pleases anyway,  
22 and the comments are only so they can say we submitted it to the County for its review,  
23 well, if review has no impact other than to say I read it, why waste \$200,000 on it? We  
24 could review it any time. So I want this process to be meaningful, and I want Park and  
25 Planning's participation to be fully forthright and blunt with us. And if there's a problem  
26 we need to raise with the state, you need to tell us there are problems that we can raise  
27 with the state. As near as I can tell, Montgomery County Park and Planning, you're not  
28 the state's Park and Planning. And you've got to be sure that you give us what we need  
29 so we can represent these views to the state. So, that's what I would like to see happen.

30  
31 Council President Praisner,

32 Well, in keeping with my colleagues' comments, we do have this scheduled for  
33 November 19th at 2:00 p.m. What I would like is an answer at that worksession on  
34 when we are going to see the answers to the questions we have asked. I would prefer  
35 to get the answers at that time or before, but if not, I would like to know when. I would  
36 also like to know for the last ten requests that the state has given to Park and Planning,  
37 when was the request given? Who saw it in Park and Planning and what was the  
38 timetable for response? [INAUDIBLE] What was the timetable for response? Okay?  
39 Thank you all very much. Good afternoon, ladies and gentlemen. This is a public  
40 hearing on Expedited Bill 26-07, Taxicab - Passenger Vehicle Licenses which would  
41 authorize the Department of Public Works and Transportation to award up to a certain  
42 number of passenger vehicle licenses under certain circumstances and generally  
43 amend the County's taxicab law. A Transportation and Environment Committee  
44 worksession is tentatively scheduled for November 29th at 9:30 a.m. Persons wishing to



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1 submit additional comments should do so by the close of business November 20th so  
2 that your views can be included in the material which staff will prepare for Council  
3 consideration. Before beginning your presentation, please state your name clearly for  
4 the record and spell any unusual names. Our first two speakers are Nancy Kutz for the  
5 County Executive and Arnie Gordon for the Taxicab Services Advisory Committee.  
6 Nancy, you're first.

7  
8 Nancy Kutz,

9 Hi, I thank you. I'm Nancy Kutz, speaking on behalf of County Executive Leggett. The  
10 Executive requested this legislation to safeguard and maintain taxicab service.  
11 Barwood, the largest taxicab service provider in the County has filed for bankruptcy  
12 protection which has put at risk the continuity of a large segment of this important  
13 service. The bank that holds the lien against these taxicabs could enforce its lien and  
14 cause up to 360 cabs to be placed out of service. Taxi service is not only important to  
15 the general public, but it impacts the quality of life for those who participate in Medicaid  
16 transportation, call and ride programs, and to a lesser extent metro access programs.  
17 Taxi transportation for these programs is currently provided by three companies, one of  
18 which is Barwood. Should a number of cabs suddenly be removed from service, the  
19 number of cabs in the remaining companies will not be sufficient to meet the demand for  
20 service. The legislation will provide the flexibility and a contingency plan to sustain  
21 taxicab service in the County should a large segment be unable to provide service.  
22 Without this legislation, if taxicabs are taken out of service, the department will not be in  
23 a position to immediately reissue up to 360 licenses. The disruption to the provision of  
24 service and para-transit service would be very significant. To protect service, the  
25 department must have the ability to award up to 200 licenses. We cannot project if the  
26 need for all 200 will be tomorrow, next year, or ever. But given the risk of service  
27 disruption, we must put in place a means to be sure that we do not leave taxicab  
28 passengers without service, which is an absolute necessity to many taxicab users. Only  
29 the licenses that are needed will be awarded. The goal is to sustain taxicab service at  
30 the current approved level of 650 licenses, which is what we have now. Licenses will be  
31 awarded if the number of in service taxicabs falls below 650. We expect to issue about  
32 60 licenses immediately because Barwood has been unable to replace about 60 of their  
33 overage taxicabs, and those vehicles are not in service. The Executive encourages the  
34 Council to have this legislation in place as soon as possible because once the need for  
35 additional taxicabs is established, it will take time for awardees to purchase the vehicles  
36 and comply with other licensing and regulatory requirements. To protect basic  
37 transportation services to County residents and the general public, the legislation is  
38 needed now. I encourage your favorable consideration of this Bill.

39  
40 Council President Praisner,  
41 Thank you. Mr. Gordon.

42  
43 Arnold Gordon,



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1 Good afternoon, Council President Praisner and members of the Council. I'm Arnold  
2 Gordon, Chairperson elect of the Taxicab Service Advisory Committee. Thank you for  
3 this opportunity to convey the Committee's opinion on this Bill. The Committee supports  
4 the Bill as one that is necessary to ensure there is adequate taxicab service in the  
5 County. At our Committee meeting of November 6th, the Committee unanimously  
6 agreed that the Bill should stand as presented since it gives the Department of Public  
7 Works and Transportation the flexibility to choose the time and number of licenses to  
8 issue under a variety of different exigent circumstances should the need arise. The  
9 Committee also unanimously agreed to recommend that the Council give the following  
10 guidance to the department as to the manner and timing of implementation, of the  
11 powers granted to the Director by this legislation. While we support the Bill, concern  
12 was expressed by the industry, as well as public representatives on the Committee, that  
13 if 200 licenses were issued at once, they could flood the market and undermine the  
14 economic viability of the industry not only for fleets, but for individual owners as well.  
15 We believe new licenses as and if issued, should be gradually phased in. If additional  
16 licenses are needed, a small number should be awarded at any one time so that the  
17 market will be better able to absorb the additional cabs. Of necessity, judgment as to  
18 how quickly and how many licenses should be awarded is of course best left to the staff  
19 of the department and to the Director, but your providing such guidance to the Director  
20 will be welcome. We also think you ought to give guidance that the County, that they  
21 give existing qualifying County taxicab fleets priority consideration for a fair share of any  
22 new licenses. Some priority in issuance of new licenses should be given to these  
23 companies, two of which already participate in Medicaid transportation and call and ride  
24 programs. These are companies that have made a considerable capital investment in  
25 their business year and proven to be reliable and dependable providers. There is  
26 concern that if a large number of new licenses are issued to providers new to the  
27 County and having an unproven record of service within the County, it might present a  
28 potential for deterioration in the services provided and a challenge to the enforcement  
29 capability of the department. The legislation is the authority to award the licenses. The  
30 Committee supports this grant of authority to the department which is charged to ensure  
31 that the level of service is maintained so that it is available not only to the general  
32 public, but to those who participate in the Medicaid transportation and call and ride  
33 programs. The current number of licenses is 650. The ability to provide additional  
34 licenses on relatively short notice and without the need for further legislation and to  
35 avoid the delays provided by protracted litigation affords the Director the authority to  
36 respond to unforeseen needs and economic uncertainties in the market. Members of  
37 the Committee also strongly felt it should be on record supporting the existing  
38 requirement that as and if new licenses are issued, the requirement that 5% of vehicles  
39 continue to be capable of accommodating wheelchairs.

40  
41 Council President Praisner,  
42 Thank you. There are no -- thank you all very much. Let me call group B, Girma  
43 Mengistu for the Cab Owners Organization, Bob Jango speaking on his own behalf,  
44 David Mohibi for Regional Cabs, Reza Raoofi for Action Taxicab, Inc., and John



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1 Marshall for Barwood Cab. If you would all come forward please. And ladies and  
2 gentlemen, we're not going to be able to have that exit blocked, so there is a television  
3 on the 6th floor. Those of you who are standing please, according to the Fire Marshal,  
4 would you please proceed to the 6th floor where you can sit and watch the Council's  
5 proceedings on television. Thank you. Cab Owners Association, I don't see. Robert  
6 Jango. Mr. Jango here? Ms. Mengistu? Mr. Mohibi?

7  
8 David Mohibi,

9 Good afternoon. David Mohibi, President of Regency Cab and also a member of  
10 Taxicab Service Advisory Committee. Regency Cab understands and fully appreciates  
11 the rationale behind the Bill. However, due to serious language concerns and lack of  
12 fundamental clarity, Regency is not in favor of the current version of the Bill. Our  
13 understanding is that the Bill 26-07 is designed to ensure that there is minimal amount  
14 of disruption to taxi service in the event that a major service provider ceases its  
15 operation. Regency Cab has provided taxi service in Montgomery County since May of  
16 1994. Regency currently operates around 120 cabs. On the short notice, Regency can  
17 easily increase its size to compensate for decreased or disruption of services caused by  
18 other providers. However, Regency, like any other businesses, would have to assess  
19 the risk and rewards of such a huge financial undertaking. Bill 26-07, in its current  
20 written version, does not address the business stability and the fundamental regulatory  
21 clarity to encourage such a major business investment. Regency supports the rationale  
22 behind the Bill 26-07 which is service continuity when there is disruption of service or  
23 stability regarding a dominant service provider. There is a legitimate concern that  
24 citizens dependent on taxi service may be stranded and government services to the  
25 needy residents may suffer due to such a disruption of service. Regency applauds  
26 DPWT for its initiative to attempt to create a contingency plan. Regency is committed to  
27 working with DPWT to develop a fair and well understood solution that provides for  
28 continuity of service. On the other hand, Regency requests that DPWT work with us to  
29 address our concerns in this Bill 26-07. Bill 26-07 in its current draft omits many  
30 fundamental regulatory concepts that causes serious concern that could lead to  
31 unintended consequences that would be destructive rather than constructive. We have  
32 several concerns on the second page of my written testimony that you have. I will just  
33 basically go over them quickly. Number one is flooding the market with the PVLs. Bill  
34 26-07 currently only specifies the number of new PVLs being issued without any  
35 relationship to the total number of PVLs in the County. Generalization and unlikely  
36 events. Motivation for the Bill is described as the special circumstances. The Bill's  
37 language lacks definition and generalizes the circumstances. Lack of clear trigger  
38 events. The Bill does not address and define the events that may trigger the so called --  
39 circumstances. Lack of direction regarding issuance of the new PVL -- .

40  
41 Council President Praisner,

42 Your time is up. We have the list. I'm sure the Committee and the Councilmembers will  
43 review it.



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1 David Mohibi,  
2 Thank you.

3  
4 Council President Praisner,  
5 Reza Raoofi.

6  
7 Reza Raoofi,  
8 Good afternoon everyone. My name is Reza Raoofi. I'm President of the Action Taxi,  
9 also President of the CCTI and member of the TSAC. Basically, the Bill 26-07 is very  
10 poorly written, and is not necessarily going to help the market out there. It's not going to  
11 have better transportation to provide for citizens of the Montgomery County. The other  
12 issue we have, flooding the market is basically going to damage the driver's income, is  
13 going to damage the families, the people investing in this business, and also the  
14 company, it's going to put the company at bankruptcy edge. Our experience in the past  
15 shows in 1990 when they issue 140 taxicab licenses to the County, they put the  
16 company the name of Silver Spring put out of the business because they were not able  
17 to maintain and keep up with -- they were not able to maintain and they went out of  
18 business. There are two issues here to be considered in a Bill that a part of the Council  
19 should repeal. The section 53 02 04 that should be allowed that PVL have to be  
20 transferred and also give the flexibility to the companies to be able to transfer these  
21 licenses you know, time to time when they need to, to raise the capital to survive in the  
22 market. One of the issues we have again, to issue the licenses, the chapter 53 205b  
23 have to have a regulation to be written to be able to distribute the licenses because we  
24 experienced last time, it was unfairly divided the licenses between the existing  
25 companies. This is a very important issue for existing companies like Action and  
26 Regency. They have been in the County since 1990 and 1989, and they get a minor  
27 portion of the licenses issued by the department last time. They should give preferential  
28 to the companies that already participate in the call and ride and the Medi-Tran which is  
29 that they have experience, they are ready for it, and they are doing an excellent job --  
30 Action and Regency in the last 19 years. And also, this Bill is, one of the damages here  
31 is it is creating two class of the PVL. The PVL of must service, the call and ride and  
32 Medi-Tran, to make two classes of the PVL I don't think would be a good idea.

33  
34 Council President Praisner,  
35 Thank you very much. Mr. Marshall.

36  
37 John Marshall,  
38 Thank you, good afternoon. My name is John Marshall, and I have the honor to serve  
39 as Barwood's attorney. I'm speaking here today against this Bill. We believe it is the  
40 wrong solution to a problem that has been oversimplified by DPWT. I urge the Council  
41 to review our written testimony which is in your packet already. As a result of the  
42 County's opposition to Barwood's bankruptcy reorganization plan the judge ordered us  
43 this summer to meet with the County representatives to discuss issues and to try and  
44 resolve some of our differences. We have had two very lengthy meetings, the most



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1 recent of which was on October 15th. This Bill was never mentioned. The issue that the  
2 County raises was never mentioned. In fact, it was never raised before the Bill was  
3 introduced two weeks ago with any member of the industry. Regretfully, this failure to  
4 communicate is not an unusual one. It is also counterproductive. The industry had been  
5 advised that the County had serious concerns over service or over inactive licenses. A  
6 Bill could easily have --.

7  
8 Council President Praisner,  
9 I'm sorry, sir, your mic is not on, I've just been notified.

10  
11 John Marshall,  
12 I apologize.

13  
14 Council President Praisner,  
15 Go ahead.

16  
17 John Marshall,  
18 A Bill could easily have been drafted that would address those concerns. That Bill, the  
19 ideal Bill, would allow the County to issue licenses only if other remedies were  
20 unavailable. It would first make sure there is actually a service problem to be  
21 addressed. In a recent TSAC meeting, DPWT representatives were asked if there was  
22 any basis to assume that there is in fact an existing problem, service problem, and at  
23 that meeting, it was admitted that there's no such information available even casual  
24 information. For Barwood's part, since filing for bankruptcy, the number of Barwood  
25 vehicles on the road has increased. Its fleet utilization has increased, and the number of  
26 calls served including call and ride passengers has also gone up markedly. Sometimes,  
27 more licenses is simply the wrong answer, especially if there's a driver shortage as  
28 there was in 2006, a passenger crisis such as occurred after 9/11, or a problem of a  
29 fleet of a temporary nature. A temporary downturn in business should not result in an  
30 issuance of licenses when that requires the recipient, whether it's Regency or Action or  
31 Sun Cab, to invest on average 20 to 25 thousand dollars per license with absolutely no  
32 assurance of business to justify that expense. An ill timed issuance can cause damage  
33 to the entire industry and that is why there should be safeguards to assure all  
34 concerned that an issuance is truly necessary. The ideal Bill would require DPWT to  
35 actually find out what the real issue is and then give a fleet, in this case Barwood but in  
36 another time would be somebody else, the time to cure the problem. In short, the ideal  
37 Bill would require the industry and the regulators to actually talk and to work together  
38 and solve the problem, rather than simply to create a shortcut that creates serious  
39 problems, even for those that might seem to benefit initially. Lastly, if the drafters truly  
40 want to see that Barwood's inactive licenses are providing service, the solution is  
41 simple. They should allow them to be sold to those who are ready to put them into  
42 service, eliminate the sale restrictions on section 204 D.

43  
44 Council President Praisner,



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1 Thank you. Mr. Jango.

2  
3 Robert Jango,  
4 Thank you.

5  
6 Council President Praisner,  
7 Push the button in front of you. I'm not going to make that mistake twice.

8  
9 Robert Jango,  
10 Okay, sorry, I came up.

11  
12 Council President Praisner,  
13 That's okay. No, it's fine.

14  
15 Robert Jango,  
16 My name is Robert Jango, and I'm a small owner. I belong to CABS, Cab Drivers Allied  
17 for Better Service, that was the group of small owners that contributed to the Taxicab  
18 Reform Bill. You have been warned about the dangers of flooding the market with taxis,  
19 so I think pretty well, I'm not going to talk about that. It was about three years ago, the  
20 Washington Post headline was Taxi Activist Shot it was about the same time my friend,  
21 Tom --, who says hello, his wife died in the, prematurely and by accident. So we got  
22 together. We were on the opposite side of the aisle. He was with AIM, and I was with  
23 the cab drivers. And we reunited and we laughed, cried, fought, and finally agreed that  
24 life was okay. And in the meantime, we also came up with an alternative for the taxi  
25 industry, lower fares, no rent, operators that make between \$15 and \$30 a hour with  
26 dispatchers the same, drivers that make 50,000, 75,000 and up. Not a bad idea. And we  
27 do this, we have a, it's a fleet that pays taxes, drivers have a 40-hour workweek so they  
28 can sleep at home instead of behind the wheel, and also -- about 50% turnover, 8000  
29 drivers in the past ten years. There'll be a line for people who want to drive a cab in  
30 Montgomery County. So, I took an informal poll of the drivers --, they just don't believe  
31 it's true. So just I want you to tell these immigrants mostly that they are wrong and that  
32 the American dream isn't a dream. What's my message besides all this stuff? My  
33 message is cabs, and we come together with the drivers as well, we want to meet with  
34 the County Council. It's very hard to get through your guy's Transportation Committee,  
35 and I don't know where George is, but we do want to meet with you. Please let us and  
36 with Mr. Leggett as well. Tom -- is too big to come to this thing, but he will be there as  
37 well. I trust Mr. Leggett. I think he will do the right thing. None of us is privy to what's  
38 going on in the bankruptcy case, so just so you know, just, dumping all these license in  
39 the County, it's like the equivalent of a nuclear, an industry nuclear bomb. It really has  
40 the potential to kill everyone. So I trust he knows what he's doing. I don't know enough  
41 to know if I support it or I'm against it. So that's my testimony. And that's it, I guess.  
42 Thank you, Nancy.

43  
44 Council President Praisner,





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1 Okay, thank you all very much. I see no lights, just for the record, Councilmember  
2 Leventhal is out because he's having surgery today.

3  
4 Robert Jango,  
5 Oh, that's too bad.

6  
7 Council President Praisner,  
8 And the T&E Committee is scheduled to meet on this in a worksession on November  
9 29th at 9:30 a.m. This concludes the public hearing. Thank you all very much. Good  
10 afternoon, ladies and gentlemen. This is a public hearing on a special appropriation to  
11 the FY08 Operating Budget of the Maryland National Capital Park and Planning  
12 Commission in the amount of \$367,000 for school ballfield maintenance. Action is  
13 scheduled following the hearing. Before beginning your presentations, please state your  
14 name clearly for the record and spell any unusual names. There are no speakers for  
15 this hearing, so the hearing is closed. A question was raised earlier, I don't know if  
16 anybody from Park and Planning can answer that question at this point relative to are  
17 there any of the ballfields in any floodplain, but if you could get back to us with that  
18 information. I would now entertain a motion to fund the \$367,000 for school ballfield  
19 maintenance.

20  
21 Councilmember Trachtenberg,  
22 So moved.

23  
24 Council President Praisner,  
25 Motion made by Councilmember Trachtenberg.

26  
27 Councilmember Floreen,  
28 Second.

29  
30 Council President Praisner,  
31 Seconded by Councilmember Floreen. All in favor of the motion please indicate by  
32 raising your hand. That is unanimous among those present. Councilmember Leventhal  
33 absent today. Ladies and gentlemen, any of you who are standing in that area, you  
34 have to go downstairs to the 6th floor where there is a television. We're not allowed by  
35 virtue of the Fire Marshal to have that doorway blocked. It's the only exit by the stairs  
36 out of this room. So either take a seat or move to the 6th floor, please. Anyone who is  
37 standing in that area. Okay, we're going to move to the Growth Policy, the last few items  
38 that we have left over from this morning. As I recall, there were two items. One relative  
39 to the queue as Councilmember Floreen indicated this morning, reintroducing the policy  
40 area requires the queue process, and the second issue being this issue of how we  
41 resolve differences of opinion or what the process should be or what the complications  
42 may be associated with the issues between government agencies and Planning Board  
43 preliminary plan reviews, et cetera. The Resolution amendments are reflective of our



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1 actions this morning with the exception of those two items as I recall. So Mr. Faden or  
2 Mr. Orlin, I think we have to move to S94. Is that it?

3  
4 Michael Faden,  
5 Let me just very quickly take you through this, what we showed also were some of the  
6 amendments which were not --.

7  
8 Council President Praisner,  
9 Which we acted on this morning.

10  
11 Michael Faden,  
12 We acted on this morning which were not written down. So the first two -- .

13  
14 Council President Praisner,  
15 Here's the queue one on page 2.

16  
17 Michael Faden,  
18 Yes, the queue comes in on page 2. The effective dates are on the bottom of page 1,  
19 the general effective date with the exception for plans already approved. It's phrased  
20 negatively, but that's the effect of it and the Clarksburg amendment of Mr. Knapp's, you  
21 had approved last week and we didn't put in the resolution. The third item is a  
22 housekeeping measure, but in looking at the school test process we realized that  
23 nowhere did we specify, it was not definite enough to specify that the Planning Board  
24 recalculates the capacity in each cluster every year by July 1st. So the third item makes  
25 that more specific.

26  
27 Council President Praisner,  
28 Okay.

29  
30 Michael Faden,  
31 And the fourth is the queue, which applies to the school test actually because that's the  
32 test where there are staging ceilings, and we took the language from the previous  
33 Growth Policy where there had been a queue for transportation policy areas and  
34 adapted it to the school language. We went over this briefly this morning with Planning  
35 staff, Executive staff, and a couple representatives of the development community.

36  
37 Council President Praisner,  
38 Okay. It's pretty straightforward.

39  
40 Michael Faden,  
41 And that's on 2 through the top of 4.

42  
43 Council President Praisner,



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1 And let's just take a sec to make sure everybody has read the document or has looked it  
2 over. Okay. Right, yeah. Okay and F7 is the one that relates to the planning agency  
3 sign off issue that we discussed with -- .

4  
5 Michael Faden,  
6 Right with the Executive Branch and Planning Board this morning.

7  
8 Council President Praisner,  
9 Okay. The only question I have, it says "and a public agency", and this is certainly the  
10 Executive staff that brought it. But the issues may involve other public agencies. And so  
11 I would hope that we would have ample time for any other public agencies to comment.

12  
13 Karl Moritz,  
14 Yes, absolutely.

15  
16 Council President Praisner,  
17 I don't know that we have to add that in, but there are state agencies and school  
18 system, et cetera, that may want to I guess one could argue the school system is a  
19 state agency, technically, but then so is Park and Planning.

20  
21 Karl Moritz,  
22 Right. Yeah, and I'm sure that the Board would interpret that as any public agency.

23  
24 Council President Praisner,  
25 Councilmember Floreen.

26  
27 Councilmember Floreen,  
28 Yes. Thank you. Just a question about F7. How does this fix the problem that has been  
29 identified? It says the Planning Board must give us a recommendation about something.  
30 Would that mean that anticipated Growth Policy amendment or -- .

31  
32 Michael Faden,  
33 We don't know yet. It could be a Growth Policy amendment or it could even be a  
34 subdivision amendment. It could be amendment just to their own procedures.

35  
36 Councilmember Floreen,  
37 Wouldn't you say then, submit a recommendation to the Council regarding any changes  
38 in legislation or policy which would require a change? I mean, this just sort of, I mean, I  
39 assume that there is such a process in place. There's, from some people's point of view,  
40 It's just not working from other people's point of view.

41  
42 Michael Faden,  
43 Right. It's mentioned, it's referred to in the Growth Policy, but it also, the solution might  
44 be elsewhere, so that's why we didn't want to get too specific here.



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1  
2 Council President Praisner,  
3 Okay. I think -- .

4  
5 Councilmember Floreen,  
6 I'm just saying, I think what you're meant to be saying, this is just wordsmithing, submit  
7 a recommendation for changes in existing -- .

8  
9 Council President Praisner,  
10 Legislation, regulations or policies.

11  
12 Councilmember Floreen,  
13 Yeah.

14  
15 Michael Faden,  
16 If necessary but they may end up recommending no change but that's their.

17  
18 Councilmember Floreen,  
19 Well, okay, as long as that's understood.

20  
21 Council President Praisner,  
22 Okay. Alright. Councilmember Elrich.

23  
24 Councilmember Elrich,  
25 Quick question for Karl. Could you explain briefly why or why not it's, what the problem  
26 is with getting other agency input and concurrence at the point that before we, you know  
27 at the point when Park and Planning is making a decision, why don't you know then  
28 what the constraints are or what the concerns are of the other agencies? Is it a  
29 procedural thing? Do things not go out for review at that point?

30  
31 Karl Moritz,  
32 Well, I regret that I'm not the best person to answer this question. But -- .

33  
34 Councilmember Elrich,  
35 As a neutral, objective observer.

36  
37 Council President Praisner,  
38 I think they don't know at this point because -- .

39  
40 Karl Moritz,  
41 I'm sorry, I really can't even, I don't have enough information to even comment. I only  
42 know what the discussion we had this morning on this one. But I apologize.

43  
44 Councilmember Elrich,



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1 No need for an apology.

2  
3 Karl Moritz,  
4 Okay.

5  
6 Council President Praisner,  
7 Okay. The amendments are before us.

8  
9 Glenn Orlin,  
10 Ms. Praisner.

11  
12 Council President Praisner,  
13 Yes.

14  
15 Glenn Orlin,  
16 Sorry, one more amendment to the amendments.

17  
18 Council President Praisner,  
19 An amendment to the amendments?

20  
21 Glenn Orlin,  
22 Yeah, on F8, you had asked that the impact tax regulations be done by July 1st.

23  
24 Council President Praisner,  
25 Okay.

26  
27 Glenn Orlin,  
28 And the way this is structured it wouldn't do that.

29  
30 Council President Praisner,  
31 Okay.

32  
33 Glenn Orlin,  
34 So we would need to make that change.

35  
36 Council President Praisner,  
37 Okay.

38  
39 Glenn Orlin,  
40 And we'll probably renumber the Fs.

41  
42 Council President Praisner,  
43 Okay. So the Executive must submit revised implementing regulations for the  
44 transportation school impact taxes to the Council under method 2 by July 1st.



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1  
2 Michael Faden,  
3 Right. The structures out there in certain, we're calling boxes. There's a February box.

4  
5 Council President Praisner,  
6 Right.

7  
8 Michael Faden,  
9 And this was in the August box.

10  
11 Council President Praisner,  
12 There are boxes for different dates but this is a separate one because it doesn't have  
13 any other items due in, in that timeframe.

14  
15 Michael Faden,  
16 Right. Right. Yeah. We will create a July box.

17  
18 Council President Praisner,  
19 Okay. The amendments are before us. All in favor of adopting the amendments, please  
20 indicate by raising your hand. That is unanimous. Okay. We will now move to the last  
21 item on the agenda, which is Bill 23-07, Non-Discrimination - Gender Identity. As I've  
22 already noted, Councilmember Leventhal who Chairs the Health and Human Services  
23 Committee is unfortunately out due to his encounter with a deer, and surgery that is  
24 scheduled for today. And we wish him well. I have, Councilmember Leventhal has  
25 communicated to me that he has requested Councilmember Berliner to take the lead in  
26 presenting the Committee's recommendations. Lisa, could you do me a favor and  
27 continue to keep that area free and ask folks who are standing there to please move to  
28 the 6th floor from a safety and Fire Marshal perspective. There are some seats over  
29 here folks. Just join us by sitting down. Sir, you will have to put your sign down as well  
30 so people behind you can see. Down, sir. So that the people behind you can see. Thank  
31 you. Well, we can see it. We've seen it, now you can take it down so the people behind  
32 you can see.

33  
34 Unidentified  
35 They can see.

36  
37 Council President Praisner,  
38 No, they can't. It's blocking. I can't see them, which means they can't see.  
39 Councilmember Berliner.

40  
41 Councilmember Berliner,  
42 Thank you I guess, Council President Praisner. Colleagues, the legislation before you is  
43 in its essence a civil rights measure, a civil rights measure that has been adopted by 13  
44 states, the District of Columbia, and 91 local jurisdictions. It extends to a class of



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1 individuals, the transgender community, the same protections against discrimination  
2 that we currently provide under our human rights and civil liberties law to other classes,  
3 such as race, religion, marital status, and sexual orientation. In endorsing this extension  
4 of our human rights laws, the Committee is not making a value judgment with respect to  
5 the expression of one's gender identity. Our only judgment, which we believe is  
6 appropriate, is that we do not countenance discrimination against individuals as a result  
7 of who they are. Public testimony on this measure demonstrated that this group of  
8 individuals encounters serious discrimination. As my colleagues appreciate, one issue  
9 in particular has been raised that has caused considerable consternation. That issue is  
10 whether this Bill would require distinctly private and personal facilities, and otherwise  
11 public accommodations, to be made available on the basis of gender identity. The  
12 Committee initially recommended clarifying the law with respect to this issue but came  
13 to realize that our proposed clarification would not achieve its intended purpose. As a  
14 result the legislation before you now is identical to the measure as introduced which is  
15 similar to the law in the District of Columbia and Baltimore. We have been advised by  
16 the Office of Human Rights and our County Attorney that they would interpret the Bill  
17 before you as permitting the owners of these facilities to continue to have the right to  
18 designate who can use them. We believe that this is a more prudent path forward, one  
19 that respects the strong views that some have on this issue while taking a step forward  
20 in our civil rights arena. This measure has the full endorsement of the County Executive  
21 as well as numerous civil rights organizations, and the Committee urges your support of  
22 this civil rights measure.

23  
24 Council President Praisner,  
25 Thank you. So the Committee's legislation as introduced is before us. As the packet  
26 indicates, the County code 27-10C provides that the provisions prohibiting  
27 discrimination in public accommodations do not apply to accommodations that are  
28 distinctly private or personal. I see no lights, so Madam Clerk, call the roll.

29  
30 Council Clerk,  
31 Ms. Ervin.

32  
33 Councilmember Ervin,  
34 Yes.

35  
36 Council Clerk,  
37 Mr. Elrich.

38  
39 Councilmember Elrich,  
40 Yes.

41  
42 Council Clerk,  
43 Ms. Floreen.



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1 Council President Praisner,  
2 Sir, you need to sit down. We are in Council session. The Committee has. [INAUDIBLE]  
3 Sir, you need, sir, you need to sit down. This is not a public hearing. This is a Council  
4 meeting. The Committee has made its recommendation, and the Council is considering  
5 the Committee's recommendation. Madam Clerk, continue to call the roll.  
6  
7 Council Clerk,  
8 Ms. Floreen.  
9  
10 Councilmember Floreen,  
11 Yes.  
12  
13 Council Clerk,  
14 Ms. Trachtenberg.  
15  
16 Councilmember Trachtenberg,  
17 Yes.  
18  
19 Council Clerk,  
20 Mr. Andrews.  
21  
22 Councilmember Andrews,  
23 Yes.  
24  
25 Council Clerk,  
26 Mr. Berliner.  
27  
28 Councilmember Berliner,  
29 Yes.  
30  
31 Council Clerk,  
32 Mr. Knapp.  
33  
34 Councilmember Knapp,  
35 Yes.  
36  
37 Council Clerk,  
38 Ms. Praisner.  
39  
40 Council President Praisner,  
41 Yes. The legislation passes 8-0, and the Council is in recess.